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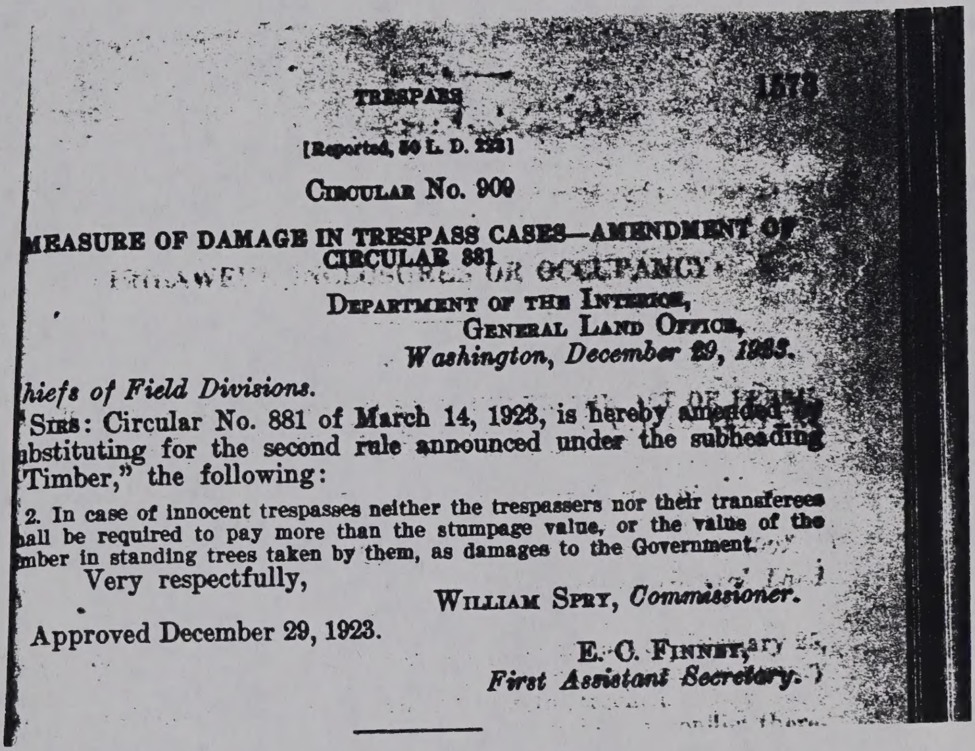

[Reported, 50 L. D. 223]

CIRCULAR No. 909

MEASURE OF DAMAGE IN TRESPASS CASES—AMENDMENT OF CIRCULAR 881

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, December 29, 1923.

hiefs of Field Divisions.

SIRS: Circular No. 881 of March 14, 1923, is hereby amended by bstituting for the second rule announced under the subheading Timber,” the following:

2. In case of innocent trespasses neither the trespassers nor their transferees hall be required to pay more than the stumpage value, or the value of the mber in standing trees taken by them, as damages to the Government.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

Approved December 29, 1923.

E. C. FINNEY,
First Assistant Secretary.

(*f*) For each certified copy of any printed order or regulation intended for gratuitous distribution, 25 cents.

2. The cost of a certified photographic copy of a patent is ordinarily 40 cents and of a typewritten copy 85 cents.

3. A separate certificate and seal must be attached to each certified copy of a patent, as well as to each certified copy of a township plat; but where there have been two or more surveys of a township and a copy of each plat of survey is desired, all of such related plats may be certified under one certificate and seal.

4. All fees for certified copies must be paid in advance. In any case where the amount remitted is insufficient, the remitter will be promptly advised concerning the deficiency.

5. Remittances may be effected by means of New York exchange, certified check, cashier's check, or post-office money order, and should be made payable to the Commissioner of the General Land Office.

William Spry, *Commissioner.*

Approved.

E. C. Finney,
First Assistant Secretary.

[Reported, 50 L. D. 299]

Circular No. 915 [2]

NOTATION OF CANCELLATIONS

Department of the Interior,
General Land Office,
Washington, February 5, 1924.

Registers and Receivers, United States Land Offices.

Gentlemen: Inasmuch as valuable rights are often dependent upon ascertaining the exact time when orders of cancellation are noted on the tract book, the following rules are prescribed:

In noting the cancellation of an entry, prospecting permit, lease, selection, etc., the tract book will show the date and initial (division) of the letter of cancellation. The date and hour of the notation on the tract book will be immediately noted on the letter and on the serial register. In reporting the status of cases in connection with which the cancellation of a prior claim is material, you will report the time such cancellation was noted on the tract book.

When relinquishments of entries or withdrawals of applications are filed the hour of filing should be noted on the serial register as well as on the paper filed.

Very respectfully,

William Spry, *Commissioner.*

Approved February 5, 1924.

E. C. Finney,
First Assistant Secretary.

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[2] Amended by Circulars Nos. 929, p. 926; 939, p. 929; 966, p. 931; 979, p. 189; and 1084, p. 939.

Circular No. 917.

DEPARTMENT OF THE INTERIOR.

General Land Office
Washington.

February 20, 1924.

:Relative to issuance to final
:certificates on combined
:final homestead proof.

Registers and Receivers,
United States Land Offices,

Sirs:

Hereafter, where satisfactory final proof is received involving several homestead entries, and one or more of the entries involved are under the stock-raising act, separate final certificate covering the stock-raising entry or entries will be issued.

For Example:

If the final proof is in support of an original entry under Sec. 2289 or enlarged Homestead act and an additional entry or entries under the stock-raising act, or an original entry under Sec. 2289 and additional entries under both the enlarged and stock-raising acts, two final certificates will issue, one for the entries not under the stock-raising act, the other for the entry or entries under said act.

Each final certificate, in addition to carrying appropriate mineral reservation, should contain a reference to the other.

Very respectfully,

Signed (William Spry)

(6867) Commissioner.

Circular No. 919.

APR 8- 1925

FEES FOR NATIONAL FOREST EXCHANGES.
AMENDING CIRCULARS NOS. 863 AND 869.

. . . .

DEPARTMENT OF THE INTERIOR

General Land Office

Washington February 4, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Section 6 of the regulations contained in joint Circular No. 863, approved October 28, 1922, for the administration of the act of March 20, 1922 (42 Stat., 465), and section 9 of the regulations contained in joint Circular No.869, approved December 30, 1922, for the administration of the act of September 22, 1922 (42 Stat., 1017), are hereby amended to read as follows:

> FEES.--Fees must be paid by the applicant at the rate of $1 each to the Register and Receiver for each 160 acres, or fraction thereof, of the base lands surrendered and conveyed to the Government.

Very respectfully,

WILLIAM SPRY,

Commissioner General Land Office.

Approved: February 4, 1924.

(Signed) HUBERT WORK,
Secretary of the Interior.

(Signed) HENRY C. WALLACE,
Secretary of Agriculture.

(Over)

(6894)

Circular No. 918.

LEGAL SUBDIVISIONS
NATIONAL FOREST EXCHANGES.
CIRCULAR NO. 863 AMENDED.

....

DEPARTMENT OF THE INTERIOR

General Land Office

Washington February 1, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

That part of paragraph 2 of the regulations contained in joint Circular No. 863, approved October 28, 1922, for the administration of the act of March 20, 1922 (42 Stat., 465), which provides:

> "The land must be specifically described according to Government subdivisions, and nothing less than a legal subdivision may be surrendered or selected,"

is hereby amended to read as follows:

> "The land must be specifically described according to Government subdivisions, and, as a rule, nothing less than a legal subdivision may be surrendered or selected. An exception to this rule may be made only where in the opinion of the Secretary of Agriculture and the Secretary of the Interior such exception would be advantageous to the Government."

Very respectfully,

WILLIAM SPRY,

Commissioner General Land Office.

Approved: February 1, 1924.

(Signed) HUBERT WORK,
Secretary of the Interior.

(Signed) HENRY C. WALLACE,
Secretary of Agriculture.

(Over)

CIRCULAR NO. 922.

COAL LAND REGULATIONS—PARAGRAPHS 8 AND 22 AMENDED

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, March 13, 1924.

Registers and Receivers, United States Land Offices.

SIRS: Paragraph 8 of the regulations (Circular No. 679) of April 1, 1920 (47 L. D., 489), governing coal-mining leases, permits, and licenses under the act of February 25, 1920 (41 Stat., 437), which paragraph was amended February 15, 1922 (Circular No. 809—48 L. D., 439), is hereby amended to read as follows:

8. *Minimum development.*—An actual *bona fide* expenditure for mine operation, development, or improvement purposes of the amount determined by the Secretary and stated in the lease offer hereinafter referred to is adopted as the minimum basis for granting leases, with the requirement that not less than one-third of the required investment shall be expended in development of the mine during the first year, and a like amount each year for the two succeeding years, the investment during any one year over such proportionate amount for that year to be credited on the expenditure required for the ensuing year or years. If the investment to be made is fixed at more than $10,000, the lessee shall furnish a bond, with approved corporate surety or with two qualified individual sureties, conditioned upon the expenditure of the specified amount of investment. After the required investment has been made, a bond in the sum of $5,000, with approved corporate surety, conditioned upon compliance with the terms of the lease, will be required. In case of lease of a small area, where the investment to be made is $10,000 or less, the lessee shall furnish a bond, with approved corporate surety or with two qualified individual sureties, to cover both the investment and compliance with the terms of the lease, such bond to be in half the amount of the investment to be made but in no case less than $1,000. With bonds signed by individual sureties must be filed affidavits of justification by the sureties that each is worth double the sum specified in the undertaking over and above his just debts and liabilities in real property exempt from execution, and a certificate by a judge or clerk of a court of record, a United States district attorney, a United States commissioner, or a United States postmaster, as to the identity, signatures, and financial competency of the sureties. All bonds will be examined from time to time as to their sufficiency, and additional security will be required whenever deemed necessary.

Paragraph 22 of said regulations is hereby amended by adding an additional paragraph, as follows:

(*g*) After a permit is ready for delivery the permittee will be notified and allowed thirty days within which to furnish a bond, with approved corporate surety or two qualified individual sureties (with evidence of qualification as provided in paragraph 8), in the sum fixed by the Secretary when the permit is granted, but not to exceed $500, conditional upon compliance with the terms of the permit and against failure of the permittee to use reasonable precautions to prevent damage to the coal deposits or to leave the premises in a safe condition upon the termination of the permit. Bond with additional obligations therein will be required where the permit embraces lands entered or patented with the coal reserved under the act of June 22, 1910 (36 Stat., 583), or where the lands are a portion of a reclamation project.

Very respectfully,

WILLIAM SPRY,
Commissioner.

Approved March 13, 1924.
E. C. FINNEY,
First Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1924

Circular No. 926.

INSTRUCTIONS--EXPIRATION OF PROSPECTING PERMITS.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington,

April 5, 1924.

Registers and Receivers,
United States Land Offices,
Gentlemen:

Action taken by dertain district land offices on applications for lands which have been included in prospecting permits outstanding for more than two years, indicates that not all district land officials fully understand the status of such permits, and in order that the matter may be made clear, you are instructed as follows:

Permits to prospect for potash, under the act of Oct. 2,1917 (40 Stat.,297), Cir. No. 594,permits to prospect for coal and permits to prospect for sodium, under the act of Feb 25, 1920 (41 Stat.,437) Cirs .679,& 699, are issued for terms of two years without provisions for extensions of time. If any such permittee does not apply for patent or lease,based on claim of discovery within the two year period, the permit expires by limitation fixed by both the law and the terms of the permit. No formal action to terminate the permit is necessary or will be taken. Accordingly, such a permit, after two years from date of issue,being no longer in force,is no bar to the allowance of other filings for the land which it embraced.

As to oil and gas prospecting permits,the situation is different.The law authorizes extensions of time beyond the two-year period, and an oil and gas prospecting permit is to be considered in force until it has been canceled by this office and the cancellation noted on your tract books.(See 49 L.D.,171,
also Circ. No. 915, approved Feb. 5, 1924)

50 L D-504

Very respectfully,

William Spry,

Commissioner.

Approved April 5, 1924.

E.C. Finney,

First Asst. Secretary.

([illegible]34)

Circular No. 929.

NOTATION OF CANCELLATION OF OIL AND GAS PERMITS.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 23, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Owing to the many complaints of the operation of the present rule as to the noting of the cancellation of the oil and gas permits on the tract books of your offices in order that other applications may be received for the same land and in the interest of good administration and equal rights to all the following administrative rule is adopted:

Hereafter the cancellation of an oil and gas permit will be made effective on a certain date (probably 20 days from the date of the letter of this office taking such action) when the cancellation will be noted on the tract books of the local land office at 10 o'clock a. m. Applications for the land may be filed personally or by mail between the hours of 9 a. m., and 10 a. m. of the day cancellation becomes effective, and all applications so filed will be treated as having been filed at 10 a. m., and in case of conflict will be disposed of by a drawing held publicly by you at 2 p. m. on the same day.

Letters of this office canceling the oil and gas permits will name the date when cancellation becomes effective and will state the hour when applications may be filed as indicated in the preceding paragraph.

A carbon copy of such letter should immediately upon its receipt be posted in your office as notice to the public. The drawing should be conducted in such a manner that no valid criticism can or may be made as to its fairness.

Circular No. 915, dated February 5, 1924, is accordingly modified as to oil and gas prospecting permits.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: April 23, 1924.

E. C. FINNEY,

First Assistant Secretary.

(7367)

Circular No. 932.

RIGHTS OF SETTLERS TO MINERAL DEPOSITS PURSUANT TO OIL LEASING ACT.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington April 28, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

In a recent decision, the Department held that a settler upon the public domain prior to the passage of the leasing act, where the lands involved were not, at time of settlement, withdrawn or classified as valuable for oil and gas deposits, is entitled, under certain conditions, to a preference right to a permit to prospect for oil and gas, pursuant to section 20 of the leasing act, for the lands settled upon.

The following statements and regulations are hereby made to govern future action in cases of this kind:

1. No preference right can be accorded a settler who made his settlement on or after February 25, 1920 (see Charles R. Haupt, 48 L. D., 355), nor to one whose settlement was for lands withdrawn or classified as valuable for oil or gas deposits.

2. In order to be entitled to a preference right, the settler must have, at the time the lands were withdrawn, classified or reported as valuable for oil or gas, done everything possible under the nonmineral land laws toward making entry. If the lands were subject to entry at that time, and were not entered by him, the settler does not acquire any preference by later making application to enter said lands. Ada Fletcher (49 L. D., 204).

3. A preference right may be exercised by a settler on lands subject to settlement although he has not made entry, if said failure is due to the fact that the lands are not open to entry under the homestead laws. In such case he will, upon the withdrawal, classification or report that the lands are valuable for minerals, be required to file an election to make entry, when the lands become subject thereto, with a reservation of the oil and gas deposits to the United States in accordance with the act of July 17, 1914 (38 Stat., 509).

4. In cases where the prospective oil and gas value of unsurveyed lands or lands suspended for survey upon which there is a valid settlement is brought to the attention of the Land Department by an applicant for a permit under section 13 of the leasing act, the procedure directed in section 12 (c) of the leasing regulations, approved March 11, 1920 (47 L. D., 437), will be followed, and the mineral waiver above described will be required. Newton v. Flesher (unreported), decided March 31, 1922, and departmental letter dated December 7, 1922, in re: Flora A. Kable.

(over)

5. Every applicant for permit for unsurveyed lands or lands, which though subject to settlement, are not subject to entry, must state in his application or show by affidavit of a credible witness, that there are no settlers upon the land, or if there be settlers, give the name and post-office address of each and a description of the lands claimed, by metes and bounds and approximate legal subdivisions, if unsurveyed. Upon receipt of an application which shows that there are settlers on the land included therein, you will serve notice by registered mail on each settler that an application for permit has been filed and allow him 30 days from notice within which to file a full statement of the facts of his settlement claim, and any objection he has to the issuance of the permit and to state whether he will claim a preference right to a permit to prospect the land if he be found entitled thereto. If no objection be filed in response to such notice, the application for permit will be considered without regard to the claim of such settler, except that a bond will be required in proper cases as security for damage to the settler's crops and improvements. Such settler will be required, when he makes entry for the land, to file consent to a reservation of the oil and gas to the United States, unless the permit has been canceled.

If the settler files objection to the issuance of the permit and shows that he has a valid settlement claim, the procedure will be as follows:

a. If the lands have not been withdrawn or classified as valuable for oil and gas deposits, the General Land Office will proceed as indicated in section 4 of these regulations.

b. If, however, the lands have already been withdrawn or classified as mineral, the General Land Office will proceed in accordance with section 3 hereof.

6. Where settlement has preceded the filing of an application for a prospecting permit, and no preference right is claimed or exists in the settler, the applicant for permit will be required to furnish a bond in the sum of $2,000, as security for damage to his crops and improvements, as in the case of applications or entries made pursuant to the act of July 17, 1914 (38 Stat., 509).

7. Any permits issued pursuant to representations by the applicants that there are no settlers on the land, are and will be issued subject to the rights of any settlers upon the land at the time the application was filed; and the claims of said settlers are hereby declared to be of the class covered by the term "valid rights" in the general excepting clause in each permit, which reads, "valid rights existing at the date of this permit will not be affected hereby."

You will examine all applications hereafter presented and require compliance with the requirements hereof, during the 30-day period of suspension prescribed in section 4 of the general regulations approved March 11, 1920, Circular No. 672 (47 L. D., 437).

Please secure the widest publicity possible, without expense to the Government, for these regulations.

Respectfully,

Approved: April 28, 1924.
E. C. FINNEY,
First Assistant Secretary.

WILLIAM SPRY,
Commissioner.

MAY 24 1924

Circular No. 933.

AMENDED REGULATIONS RELATING TO ACCEPTABLE EXPENDITURES ON DESERT-LAND ENTRIES.

. . . . .

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

April 26, 1924.

Registers and Receivers,

United States Land Offices:

Sirs:

Section 18 of Circular No. 474 in relation to acceptable expenditures for the reclamation of desert lands is hereby amended by adding thereto the following paragraphs:

> The value to be attached to and the credit to be given for, an expenditure for works or improvements is the reasonable value of the work done, or improvement placed upon the land, according to the market price therefor, or for similar work or improvements, prevailing in the vicinity, and not the amount alleged by a claimant to have been expended, nor the mere proof of expenditures, as exhibited by checks or other vouchers (Bradley v. Vasold, 36 L. D., 106).
>
> Expenditures for the clearing of the land will not receive credit in cases where the vegetation or brush claimed to have been cleared away has not been actually removed by the roots. Therefore, expenditures for clearing, where as a matter of fact there has been only crushing, or rolling, or what is known in some localities as "railing" the land, will not be accepted.

You will give all possible publicity to this amendment of the regulations, and in examining annual proofs, and also final proofs in cases where final proofs have been submitted without the prior submission of annual proofs, you will carefully scrutinize such proofs with a view to determining whether the value of expenditures claimed is in accord with the true value of the work done or expenditures made, and also whether the clearing claimed to have been performed conforms to the requirements of the second paragraph of the amended regulations.

Very respectfully,

WILLIAM SPRY,

Commissioner.

APPROVED: April 26, 1924.

E. C. FINNEY,

First Assistant Secretary.

(7453)

JUN 14 1924

Circular No. 939.

AMENDMENT OF CIRCULAR NO. 929 - RELATING TO NOTATION OF CANCELLATION OF OIL AND GAS PERMITS.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 28, 1924.

Register and Receiver,
United States Land Offices.
Gentlemen:

The second paragraph of Circular No. 929, dated April 23, 1924, relating to filing oil and gas applications for lands embraced in a canceled permit, is hereby amended by adding thereto the following:

> However, where application is filed by the former permittee, such application must be accompanied by an agreement to furnish bond in the sum of $1000, conditioned as security that drilling operations will be commenced within six months from the date of issuance of said permit and for compliance with the remaining drilling requirements of such permit. This bond is to be in addition to the bond required by the regulations in other cases. In case the former permittee is successful at the drawing, his application and that of the party next in order in the drawing will be suspended for 15 days, within which time the bond herein required must be furnished by the successful applicant. In case he fails to furnish said additional bond within this period, his application will be rejected, and that of the remaining applicant forwarded for consideration in due course.
>
> Where it appears that the former permittee has associated himself with others who are successful in the drawing, or is a stockholder in a corporation which acquires priorities at the drawing, such fact will not require the suspension of said application, nor the furnishing of a bond as above required, although such requirement may be made by this office where it appears that the control of the permit will be in the hands of the former permittee.

Attach a copy hereof to all copies of Circular No. 929 you may have.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: May 28, 1924.

E. C. FINNEY,

First Assistant Secretary.

(7594)

Circular No. 943.

(Paragraph 89, Circular No. 430 of April 11, 1922, amended.)

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 18, 1924.

Registers and Receivers,
United States Land Offices.

Gentlemen:

Paragraph 89 of the circular of April 11, 1922 (49 L. D., 15), is hereby amended so as to read:

(1) The charge for the publication of notice of application for patent in a mining case in all districts shall not exceed the legal rates allowed by the laws of the State for the publication of legal notices wherein the notice is published, and in no case shall the charge exceed $10 for each ten lines of space occupied where publication is had in a daily newspaper, and where a weekly newspaper is used as a medium of publication $7.50 shall be the maximum charge for the same space. Such charge shall be accepted as full payment for publication in each issue of the newspaper for the entire period required by law.

It is expected that these notices shall not be so abbreviated as to curtail the description essential to a perfect notice, and on the other hand that they shall not be of unnecessary length. The printed matter must be set solid without paragraphing or any display in the heading and shall be in the usual body type used in legal notices. If other type is used, no allowance will be made for additional space on that account. The number of solid lines only used in advertising by actual count will be allowed. All abbreviations and copy must be strictly followed. The following is a sample of advertisement set up in accordance with Government requirements and contains all the essential data necessary for publication:

> M. A. No. 04421, U. S. Land Office, Elko, Nevada, October 5, 1921. Notice is hereby given that the Jarbidge Buhl Mining Company by W. H. Hudson, attorney in fact, of Jarbidge, Nevada, has made application for patent to the Altitude, Altitude No. 1, Altitude No. 3, and Altitude Annex, lode mining claims, Survey No. 4470, in unsurveyed T. 46 N., R. 58 E., M. D. B. and M., in the Jarbidge mining district, Elko County, Nevada, described as follows: Beginning at corner No. 1, Altitude No. 3, whence the quarter corner of the south boundary of Sec. 34, T. 46 N., R. 58 E., M. D. B. and M., bears south 41° 54' west 7285.63 feet, thence north 20° 14' west 1500 feet to corner No. 2 of said lode; thence north 69° 46' east 569 feet to corner No. 3

of said lode; thence south 20° 14' east 417.5 feet to corner 2, Altitude No. 1; thence north 69° 46' east 1606.1 feet to corner No. 3, Altitude lode; thence south 20° 14' east 1500 feet, to corner No. 4 of said lode; thence south 69° 46' west 1606.1 feet, to corner No. 1, Altitude No. 1 lode; thence north 20° 14' west 417.5 feet to corner No. 4, Altitude No. 3; thence south 69° 46' west 569 feet to point of beginning. There are no adjoining or conflicting claims. The location notices are recorded in Book 17, pages 373 and 374, and in Book 15, pages 52 and 53, mining locations, Elko County, Nevada, John E. Robbins, Register.

(2) For the publication of citations in contests or hearings, involving the character of lands, the charges may not exceed the rates provided for similar notices by the law of the State, and shall not exceed $12 for five publications in a weekly newspaper, or $15 for publication in a daily newspaper for thirty days. Such charge shall be accepted as full payment for all the matter so published and for the full period required.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: June 18, 1924.

E. C. FINNEY,

First Assistant Secretary.

CIRCULAR NO. 952

SECTION 2 OF THE STOCK RAISING HOMESTEAD ACT AMENDED—RESIDENCE ON LAND PRIOR TO DESIGNATION AUTHORIZED

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 19, 1924.

Registers and Receivers, United States Land Offices.

SIRS: By an act of Congress approved June 6, 1924 (Public No. 206), section 2 of the stock raising homestead act of December 29, 1916 (39 Stat. 862), was amended to read as follows:

> That the Secretary of the Interior is hereby authorized, on application or otherwise, to designate as stock-raising lands subject to entry under this Act lands the surface of which is, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of such character that six hundred and forty acres are reasonably required for the support of a family: *Provided*, That where any person qualified to make original or additional entry under the provisions of this Act shall make application to enter any unappropriated public land which has not been designated as subject to entry (provided said application is accompanied and supported by properly corroborated affidavit of the applicant, in duplicate, showing prima facie that land applied for is of the character contemplated by this Act), such application, together with the regular fees and commissions, shall be received by the register and receiver of the land district in which said land is located and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character. That during such suspension the land described in the application shall not be disposed of; and if the said land shall be designated under this Act, then such application shall be allowed, otherwise it shall be rejected, subject to appeal; but no right to occupy such lands shall be acquired by reason of said application until said lands have been designated as stock-raising lands, unless the applicant actually establishes his residence and resides on the land; and until final action on such application, the settler may, if the land be not designated under this Act, change his application to one under the enlarged homestead law if such lands be designated thereunder, or to one under the ordinary provisions of the homestead law: *Provided*, That if the settler shall change his application he shall embrace therein the lands upon which his residence and principal improvements are located, and conform to the provisions, limitations, and conditions of the applicable law.

The effect of the act is to permit a person who applies to make entry under the stock raising homestead act for an undesignated tract of land and files therewith a petition for its designation to occupy the land prior to its designation, provided he actually establishes residence on the land and continues to reside thereon during such occupation; and if the petition for designation be denied, the settler may change his application to one under the enlarged homestead act or to one under the ordinary provisions of the homestead law, provided he is qualified to make such an entry.

An applicant who desires to change his application to one under the enlarged homestead act must file in the local office, before *final* action is taken on the stock-raising homestead application, a supplemental application on the form prescribed by the department for making such entries, and, if there be pending a junior application to make entry under any law other than the stock raising homestead act, the applicant must also file his affidavit, corroborated by two persons, setting forth therein the date when he established actual residence on the land and to what extent the residence was thereafter maintained. The affidavit should describe the legal subdivisions on which residence was maintained and on which the improvements are located. An entry under the enlarged homestead act may not include two incontiguous tracts, except additional entries may embrace two or more incontiguous tracts if they are contiguous to the original entry.

If the land sought under a change of application has not been designated under the enlarged homestead act, a proper petition for its designation must be filed in accordance with existing regulations.

The amendment of said section 2 permits an entryman under the stock raising homestead act to claim credit for residence on the land and improvements made after the date of his application and petition for designation.

The object of Congress in amending said section 2 being to validate, under the conditions prescribed, occupation of the land prior to its designation, the fact that an applicant avails himself of the privilege of residing on the land prior to designation will not defeat the preferential right provided for by section 8 of the act.

Very respectfully,

William Spry,
Commissioner.

Approved July 19, 1924.
E. C. Finney,
First Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1924

Office Copy

See Circ 1309

Circular No. 953.

INSTRUCTIONS AS TO COAL MINED UNDER PENDING APPLICATIONS FOR LEASE OR PERMIT.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

For supplement to this Circ - See Circ. 1835

July 19, 1924.

~~amended by 1239~~
+ 1309

Chiefs of Field Divisions,
Registers and Receiver.

Gentlemen:

Since the passage of the act of February 25, 1920, providing for the mining of coal on Government lands under lease and prospecting permit, applicants for such leases or permits have, in many instances, begun mining coal immediately after filing their applications. In such cases it has been the practice up to the present time to collect damages on a trespass basis for all coal so mined up to the date of execution of the lease or permit applied for.

In a letter dated May 23, 1924, in response to a request from the Director of the Bureau of Mines for instructions regarding certain phases of the general coal production situation, the Department stated in part as follows:

> "All coal mined upon the public domain without any right under the public land laws is mined in trespass and such sums as are received by the Government for coal so mined are covered into the Treasury of the United States as 'miscellaneous receipts'." (See Circular No. 881 for measures of damage in such cases.)
>
> "Reports of production mined in trespass should in all cases be itemized separately from production under permits or leases."
>
> "Where a party has applied to have lands offered for lease at public auction and becomes the successful bidder when such auction is held, any operations commenced before such lease is awarded constitutes a trespass and the funds received in payment for coal removed while such trespass existed, occupy the same status as though the trespasser was not, at the time of payment, a potential lessee."

"If a lessee mines coal before being awarded a lease at public auction, the production is in trespass and is to be separately accounted for as such. In this situation, no rights are initiated by applying to have the lands offered for lease as the applicant must be the highest bidder in order to succeed. Upon award of the lease at the auction the successful bidder in possession is accountable for the coal deposits and rentals as though the lease had issued."

"Where, however, a lessee makes application for a lease and shows that he has in good faith improved, occupied, or claimed coal lands and is found equitably entitled to a lease, coal produced prior to the application for a lease was produced in trespass and will be collected for as such, but if the lessee has at all times been in possession of the land, working the same, all coal produced after application is made for a lease will be considered as mined under the lease and the lessee will be held accountable therefor and for the prescribed rental, from that time under the principles stated in the case of the Big-4 Consolidated Oil Company (49 L. D., 482)."

"Prospecting permits are granted only where such operations are necessary to show the existence and workability of coal deposits. Provision is made in these permits for the payment of a royalty on all coal produced thereunder before lease is applied for. In this case also rentals and royalties under the lease will commence upon the date when lease is applied for."

"Where a permittee has discovered coal and has applied for a lease, such application supersedes the permit and when lease is granted it relates back to the time of application. There can be no interval for the permittee must account for the coal in accordance with the terms of his permit until lease is applied for and thereafter in accordance with the terms of the lease."

In accordance with the above, you will hereafter observe the following rules:

1. Coal mined from the date of filing of an application for prospecting permit to the date of execution of the permit is in trespass and must be settled for on a trespass basis, but at the rate of 25¢ a ton fixed in the permit.

2. Where a permittee has discovered coal and has applied for a lease his rights relate back to the date of filing of the application for lease and the mining of coal thereunder does not constitute a trespass.

3. Where the applicant has no equities, gained prior to the passage of the leasing act, but is awarded a lease as the successful bidder at the auction, coal mined by him from the date of filing of his application to the date of awarding of the lease at the auction must be settled for as a trespass, but at the rate of royalty fixed in the lease.

4. Where an applicant has been awarded a lease on account of equities gained prior to the passage of the leasing act his rights relate back to the date of filing of the application. Coal mined prior to the filing of the application for lease is, however, a trespass and must be settled for on a trespass basis.

Settlements for coal mined in trespass should be made to the Chief of Field Division and transmitted by him with his report in the matter to this office as in other trespass cases. If, for any reason, such settlements are made to the Registers and Receivers, they will promptly forward the same to the proper Chief of Field Division for appropriate action.

Cases now pending in this office will be adjudicated in accordance with the above instructions.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved:

E. C. FINNEY,

First Assistant Secretary.

DEC 2 1924

Circular No. 966.

INSTRUCTIONS UNDER CIRCULARS NO. 929 and NO. 939.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

November 13, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Referring to Circular No. 929, entitled "Notation of Cancellation of Oil and Gas Permits," approved April 23, 1924, and amended Circular No. 939, approved May 28, 1924, you are further instructed as follows:

1. Where the cancellation of more than one permit becomes effective on the same day the land will be opened to applications for permits without regard to the particular areas embraced in each of the canceled permits; and where, in such cases, drawings are required, all allowable applications filed within the prescribed time for the areas opened should be included in a single drawing.

2. Where drawings are held, you will follow the procedure laid down by paragraph 4 of circular of May 22, 1914 (43 L. D., 254). You will issue your official receipt for the fees paid by each applicant, but apply only the fees paid by the successful applicants, returning by your official check the fees paid by the unsuccessful applicants, noting on the abstract of moneys returned or applied, opposite the check number, the word "drawing." Also note on the oil and gas applications the word "drawing" and the date, amount, and number of the check.

At the completion of a drawing, furnish this office a list of the applications involved therein, showing: (1) date of drawing, (2) description of the land involved, (3) names of successful applicants and serial numbers of applications, and (4) names of unsuccessful applicants and serial numbers of their applications.

Very respectfully,

Approved: November 13, 1924.

E. C. FINNEY,

First Assistant Secretary.

WILLIAM SPRY,

Commissioner.

Circular No. 967.

APPLICATIONS UNDER ACT OF JANUARY 27, 1922 (42 Stat., 359).

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DEPARTMENT OF THE INTERIOR

General Land Office

Washington

December 3, 1924.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Under date of December 2, 1924, the Secretary of the Interior issued the following Administrative Ruling:

> The act approved January 27, 1922 (42 Stat., 359), provides that in all cases where a final entry of public lands has been or may be hereafter canceled, and such entry is held by the Land Department or by a court of competent jurisdiction to have been confirmed under the proviso to section 7 of the act of March 3, 1891 (26 Stat., 1099), if the land has been disposed of to or appropriated by a claimant under the homestead or desert-land laws, or patented to a claimant under other public-land laws, the Secretary of the Interior is authorized, in his discretion, and under rules to be prescribed by him, to change the entry and transfer the payment to any other tract of surveyed public land, non-mineral in character, free from lawful claim, and otherwise subject to general disposition, provided that the entryman, his heirs, or assigns shall file a relinquishment of all right, title, and interest in and to the land originally entered. The act contains an inhibition against assigning or transferring any right or claim under the provisions of the act.
>
> The debates in Congress, when the measure was pending, indicate that the object of the act was to afford protection to those persons who had entered the land after the cancellation of an entry as the result of proceedings instituted more than two years after the issuance of the receiver's receipt on final entry. In view of which, and of the discretion vested in the Secretary of the Interior by the act, and considering, also, that beneficiaries have had almost three years within which to present their claims, all applications thereunder filed after the date hereof will be treated as stale claims and rejected unless it appears that the statute of limitations of the State wherein

the entered land is situated does not bar an action by the entryman, his heirs, or assigns to have the present holder of the land declared a trustee thereof.

Applications under the act involving two or more incontiguous tracts will not be approved unless none of the tracts is part of an area approximately equal to that embraced in the canceled entry, and subject to entry.

One application under the act, even if for an area less than that to which the claimant is entitled, exhausts his rights under the act.

Very respectfully,

WILLIAM SPRY,

Commissioner.

JAN 26 1925

Circular No. 976.

RULES OF PRACTICE 8 and 11 AMENDED.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 12, 1925.

Registers and Receivers,
United States Land Offices.

Gentlemen:

Your attention is called to the following departmental order dated January 6, 1925, amending rules 8 and 11 of the Rules of Practice.

"Consideration of appeals which have recently come before the Department reveals that the provisions of Rule of Practice 8 relative to abatement are not clearly understood. To remove all possibility of controversy, the said rule is amended by the insertion of "service of notice by," to make it conform to the interpretation uniformly given the rule by the Department. (See 44 L. D., 568.) As amended the rule now reads:

> 'Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 20 days after such order and proof of service of notice by publication is made not later than 20 days after the fourth publication, as specified in Rule 10, the contest shall abate: Provided, That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

"To require a necessary showing, which has been insisted upon although not specifically required by the Rules of Practice, Rule 11 is amended by adding a paragraph, as follows:

> 'Proof of the mailing of notice shall be by affidavit of the person who mailed the notice, attached to the postmaster's receipt for the letter or (if delivered) the registry return receipt.'"

Very respectfully,

WILLIAM SPRY,

Commissioner.

(8733)

CIRCULAR No. 977

LOTS IN PENSACOLA, FLA.

INSTRUCTIONS

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, February 11, 1925.

gister and Receiver, Gainesville, Fla.

GENTLEMEN: Your attention is called to the act of Congress ap-oved January 12, 1925 (43 Stat. 738), which provides:

> That the Secretary of the Interior be, and is hereby, authorized to determine confirm by patent in the nature of a deed of quitclaim the titles to lots in city of Pensacola, Florida, to those persons, firms, or corporations submit- satisfactory evidence of being in possession, and of a chain of title, legal equitable, beginning more than twenty years prior to the passage of this or to those claiming by virtue of improvements and continuous adverse session for more than twenty years prior to the passage of this act. Such ims to lots are to be based on the approved survey made in 1827 by James Exum, deputy United States surveyor, or upon a supplemental plat of vey where same is found to be necessary: *Provided*, That parties having claims to lots in the city of Pensacola, Florida, and failing to present same within three years after the passage of this act, will be held to have waived their rights so to do, and such unclaimed lots will thereafter be subject to disposition solely under the act of June 28, 1832 (Fourth Statutes at Large, page 550).

(1) An application under this act must be filed with the register at Gainesville, Fla., who will assign a serial number thereto.

(2) No special form of application is established, but the application must be under oath and must state that the applicant is in possession of the land and is shown by the county records to be the present record owner, claiming through a chain of title, legal, or equitable, beginning more than 20 years prior to January 12, 1925, or that applicant was on January 12, 1925, in possession of the land and had been in continuous adverse possession for more than 20 years prior to that date and has made during that time improvements thereon. Applicant must also state whether he desires the claim to be based upon the approved survey made in 1827 by James W. Exum, deputy United States surveyor, or if he believes a supplemental plat of survey to be necessary.

(3) If applicant is claiming as record owner, etc., he must file an abstract of title certified to by a competent abstractor showing the record of all conveyances of the land from a date prior to January 12, 1905, up to the date of the filing of the application, and the affidavits of two disinterested parties that he is in possession of the land of their own personal knowledge.

(4) If applicant claims by virtue of improvements and continuous adverse possession, etc., he must file the affidavit of two disinterested witnesses made of their own personal knowledge corroborating the statements contained in the application.

(5) Notice of the filing of the application must be published for 30 consecutive days in a newspaper to be designated by the register having general circulation within the city of Pensacola, and the register shall serve notice upon each of the applicants that 90 days from receipt of notice will be allowed within which to begin the publication of the notice. The notice as published must contain the name or names of applicant or applicants, date of filing of the application, the nature of the claim and such description of the land as will render it most easily identified. In addition, the notice as published must give the last date of publication and state that any protests or objections thereto must be filed with the register at Gainesville, within 30 days from the date of the last publication. The register will notify the applicant that he will be allowed 30 day from date of the last publication within which to file proof of su publication of notice.

(6) When such proof has been made, the register will examine t same in each case and if satisfied that the provisions of the act ha been complied with and in the absence of any protests or objectio he will issue final certificate thereon in duplicate, according to attached form and transmit the duplicate to the applicant and original together with all the records in the case to this office final action. If after considering the proof the register should of the opinion that it does not meet the requirements of the act,

gister will reject the same, giving his reasons and allowing an ppeal to this office; or if protests or objections are made thereto the gister will transmit the case to this office with recommendations.

(7) If after serving the notice required by paragraph 5 of these structions and the expiration of the time allowed, no action has en taken by the applicant, the register will transmit to this office e record in the case with evidence of such notice having been ven.

Very respectfully,

William Spry, *Commissioner.*

Approved February 11, 1925.

E. C. Finney,
First Assistant Secretary.

APR 3 - 1925

CONSOLIDATION OF NATIONAL FORESTS.

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DEPARTMENT OF THE INTERIOR

General Land Office

Washington February 14, 1925.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Section 7 of the regulations contained in Joint Circular No. 863, approved October 28, 1922 (42 Stat., 465, 49 L. D., 365, 367), which provides for publication and posting of notice on lands offered in exchange is hereby amended to read as follows:

> Within thirty days from the filing of his application to select land or timber the applicant will begin publication of notice thereof, at his own expense, in a newspaper or newspapers having general circulation in the county or counties in which the land relinquished and the land or timber selected are situated, the newspapers to be designated by the register. Such notice must be published once each week for four successive weeks during which time a similar notice of the application must be posted in the local land office. The notice should describe the land or timber applied for as well as the land to be given in exchange and give the date of filing the application and state that the purpose thereof is to allow all persons claiming the land selected or having bona fide objections to such application an opportunity to file their protests with the local officers of the land district in which the land selected is situated.
>
> Proof of publication shall consist of an affidavit of the publisher or of the foreman or other proper employee of the newspaper in which the notice was published, with a copy of the published notice attached. The register shall certify to the posting in his office. The dates of such publication and posting must, in all cases, be given.

Very respectfully,

WILLIAM SPRY,
Commissioner.

Approved: February 14, 1925.
HUBERT WORK,
Secretary of the Interior.
HOWARD M. GORE,
Secretary of Agriculture.

Circular No. 983
Modifying Circular No. 913, entitled

LAND IN PETROLEUM RESERVES NOT SUBJECT TO ENTRY UNDER THE STOCK RAISING ACT.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

March 12, 1925.

Registers and Receivers,
United States Land Offices.

Gentlemen:

Section 12 of an act of Congress (Public No. 366), approved February 7, 1925, reads as follows:

> That existing entries allowed prior to April 1, 1924, under the stock-raising homestead act of December 29, 1916 (39 Stat., 862), for land withdrawn as valuable for oil or gas, but not otherwise reserved or withdrawn are hereby validated, if otherwise regular: Provided, That at date of entry the land was not within the limits of the geologic structure of a producing oil or gas field.

In view thereof, paragraph 2 of Circular No. 913, dated February 2, 1924, entitled LAND IN PETROLEUM RESERVES NOT SUBJECT TO ENTRY UNDER THE STOCK-RAISING HOMESTEAD ACT, which reads:

> As to stock-raising entries heretofore allowed for land within the limits of petroleum reserves, you will, on the submission of satisfactory final proof, forward all papers to this office, without the issuance of final certificate.

is hereby modified to read:

> As to entries allowed prior to April 1, 1924, under the stock-raising homestead act of December 29, 1916 (39 Stat., 862), for land withdrawn as valuable for oil or gas but not otherwise reserved or withdrawn, if otherwise regular, on submission of satisfactory final proof, you will issue final certificate and note on the face thereof "Validated by Sec. 12, act of February 7, 1925". However, if at date of the entry, the land was within the limits of the geologic structure of a producing oil or gas field, you will not issue the final certificate but will forward all papers to this office.

This act does not validate or protect any stock-raising homestead entries allowed after April 1, 1924. You will report such cases, if any be pending in your office, for appropriate action. Care should be exercised in future not to allow any stock-raising homestead entries within the limits of lands withdrawn or designated as valuable for oil or gas, and applications for such lands should be rejected when presented.

Very respectfully,

WILLIAM SPRY, Commissioner.

Approved: March 12, 1925.
E. C FINNEY,
First Assistant Secretary.

COPY

CIRCULAR No. 984.

PAYMENT AT TIME OF FINAL PROOF IN DESERT-LAND ENTRIES.

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DEPARTMENT of the INTERIOR
GENERAL LAND OFFICE,
Washington,

March 18, 1925.

Registers and Receivers,
United States Land Offices.

Gentlemen:-

It is observed that local officers, in an increasing number of cases of desert-land entries, are accepting final proof without final payment having been made, especially in cases where the division inspector has requested that the final certificate be withheld pending investigation and report. The departmental regulations require that --

> "At the time of making final proof, the claimant must pay to the receiver, the sum of $1 per acre for each acre of land upon which proof is made."

(Paragraph 32, Circular 474, of May 20, 1924, 50 LD., 465.) Payment by the claimant is an essential part of the transaction by which he is to acquire title to the land. The regulation requiring payment at the time of submission of proof is intended to prevent vain and useless proceedings, resulting from the possible subsequent failure of claimant to make payment. Local officers are without authority to accept final proofs not accompanied by the necessary payment. Final proofs presented without tender of payment must be rejected. (See instructions, 3 L D., 188, and 5 L.D. 220.)

Where the proof is rejected for failure to make final payment claimants should be allowed thirty days from notice of such action within which to make payment, or to appeal, as in the case where final proof is rejected for any other cause.

Very respectfully,

(Signed) William Spry,

Commissioner

WISCONSIN LANDS

(Reported, 51 L. D. 107)

CIRCULAR No. 994

INSTRUCTIONS UNDER THE ACT OF CONGRESS, APPROVED FEBRUARY 27, 1925

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 7, 1925.

REGISTER AND RECEIVER,
Wausau, Wis.

GENTLEMEN: The act of February 27, 1925 (43 Stat. 1013), entitled "An act granting to certain claimants the preference right to purchase unappropriated public lands" provides:

> That the Secretary of the Interior, in his judgment and discretion, is hereby authorided to sell, in the manner hereinafter provided, any of those lands situated in the State of Wisconsin which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.
>
> SEC. 2. "That any owner in good faith of land shown by the official public land surveys to be bounded in whole or in part by such erroneously meandered area, and who acquired title to such land prior to this enactment, or any citisen of the United States who in good faith under color of title or claiming as a riparian owner has, prior to this act, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this act, shall have a preferred right to file in the office of the register and receiver of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within 90 days from the date of the passage of this act if the lands have been surveyed and plats filed in the United States land office; otherwise within 90 days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant under the public land laws.
>
> SEC. 3. In event such eroneously meandered land is bounded by two or more tracts of land held in private ownership with apparent riparian rights indicated by the official township plat of survey at date of disposal of title by the United States, the Commissioner of the General Land Office shall have discretionary power to cause such meandered area, when surveyed, to be divided into such tracts or lots as will permit a fair division of such meandered area among the owners of such surrounding or adjacent tracts under the provisions of this act. In administering the provisions of this act, where there shall exist a conflict of claims falling within its operation, if any claimant shall have placed valuable improvements upon the land involved, or shall have reduced the same to cultivation, then to the extent of such improvements or cultivation, such claimant shall be given preference in adjustment of such conflict: *Provided*, That no preference right of entry under this act shall be recognized for a greater area than one hundred and sixty acres, in one body, to any one applicant, whether an individual, an association, or a corporation: *Provided further*, That this act shall not be construed as in any manner abridging the existing rights of any settler or entryman under the public land laws.

SEC. 4. That upon the filing of an application to purchase any lands subject to the operation of this act, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

SEC. 5. That an applicant who applies to purchase lands under the provisions of this act, in order to be entitled to receive a patent, must within thirty days from receipt of notice of appraisal by the Secretary of the Interior pay to the receiver of the United States land office of the district in which the lands are situated the appraisal price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this act. The proceeds derived by the Government from the sale of lands hereunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

SEC. 6. That the Secretary of the Interior is hereby authorized to prescribe all necessary rules and regulations for administering the provisions of this act and determining conflicting claims arising hereunder.

The following regulations are for the guidance of your office until the close of the business hour on April 30, 1925, after which applications to purchase under the act in conformity with these regulations must be filed with the Commissioner of the General Land Office.

Applications to purchase under this act must be sworn to and may be executed before any officer having a seal and authorized to administer oaths in the State of Wisconsin, and must be filed with the register and receiver of your office, or with the Commissioner of this office, within ninety days from the passage of this act, if the lands have been surveyed and plats filed in your office, otherwise within ninety days from the filing of such plat. The applicant must show that he is a native-born or naturalized citizen of the United States, and if naturalized, file record evidence thereof; must describe the land which he desires to purchase, together with the land claimed as the basis of his preference right to the lands applied for, if he applies as a riparian owner, or, if claiming otherwise, under what color of title his claim is based, and that the applied for lands are not lawfully appropriated by a qualified settler or entryman under the public land laws, nor in the legal possession of any adverse applicant; the kind, character, and value of the improvements on the land covered by the application; when they were placed thereon; the extent of cultivation had, if any, and how long continued. This application must be supported by the affidavits of two persons having personal knowledge of the facts alleged in the application. Upon receipt of such application a proper serial number will be assigned thereto.

If the land applied for is surveyed and vacant the local officers, after noting the application on their records, will suspend action thereon and will promptly forward same to the Commissioner of the General Land Office, whereupon same will be forwarded to the assistant chief inspector for investigation and appraisement of the land in accordance with the provisions of the act. If for unsurveyed land, the local officers will note the application and suspend action, transmitting it to this office for consideration as to whether or not the lands applied for are vacant public lands and of the class contemplated by the act under which title is sought. During such

suspension the lands described in the application shall not be disposed of.

When an application is received by the assistant chief inspector, he will cause an investigation and appraisement of the land to be made in accordance with the provisions of the act. The inspector making the investigation and appraisement will make a report as to the development or improvement of the land for agricultural purposes, and as to the evidence obtained as to whether or not the lands are of a class contemplated by the act, recommending the allowance or rejection of the application, which report will be returned to this office through the assistant chief inspector.

If upon consideration of the application in this office, with report and appraisement, it shall be determined that the applicant is entitled to purchase the lands applied for, this office will notify the applicant at once, by registered mail, that he must within 30 days from service of notice deposit with the receiving clerk of this office the appraised price, or thereafter and without further notice forfeit all rights under his application.

Upon payment of the appraised price of the land this office will issue notice for publication. Such notice shall be published at the expense of the applicant in a newspaper of general circulation, designated by the commissioner of this office, in the vicinity of the lands, once a week for five consecutive weeks (or 30 consecutive days if in a daily paper[a]) immediately prior to the date of sale, but a sufficient time shall elapse between the date of last publication and date of sale to enable the affidavit of the publisher of be filed in this office. The notice will advise all persons claiming adversely to the applicant that they should file any objection or protests to the allowance of the application within the period of publication, otherwise the application may be allowed. Any objection or protest must be under oath, corroborated, and a copy thereof served upon the applicant. The commissioner of this office will cause a notice similar to the notice of publication to be posted in this office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in this office, prior to the date fixed for the sale, evidence that publication has been had for the required period, which evidence must consist of the affidavit of the publisher, accompanied by a copy of the notice published.

Upon submission of satisfactory proof, if no protest or contest is pending, final certificate will issue.

Very respectfully,

William Spry, *Commissioner.*

Approved April 7, 1925.

E. C. Finney,
First Assistant Secretary.

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[a] See Instructions of Oct. 19, 1929, p. 1149.

Circular No. 1001.

EXCHANGE OF COAL LANDS WITHIN THE CUSTER NATIONAL FOREST.

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Obsolete by
Circ. 1752

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON April 8, 1925.

Register and Receiver,

United States Land Office,

Billings, Montana.

Gentlemen:

The act of March 3, 1925 (Public No. 558), entitled: "An Act for the exchange of lands in the Custer National Forest, Montana," reads as follows:

> "That lands of the United States within the Custer National Forest, Montana, which have been withdrawn or classified as coal lands or are valuable for coal, may be exchanged under the provisions of the act of March 20, 1922 (Forty-second Statutes at Large, page 465), with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same."

You will be governed in your action upon applications for exchanges under said act by the regulations contained in Circular No. 863, entitled: "Consolidation of National Forests," modified, however, in accordance with the provisions of said act.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: April 8, 1925.

E. C. FINNEY,

Acting Secretary of Interior.

R. W. DUNLAP,

Acting Secretary of Agriculture.

1803

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT.
Date JUN 11 1925
Hour

Circular No. 1003.

AMENDING SECTION 38, CIRCULAR OF JUNE 6, 1908.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 18, 1925.

Registers and Receivers,
United States Land Offices.

Gentlemen:

April 13, 1925, the Acting Secretary of the Interior directed that section 38, Circular of June 6, 1908, as amended May 7, 1912 (41 L. D., 13), be modified to read as follows:

> "38. Nature of Grant.--It is to be specially noted that this act does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license, which permit may be revoked by the Secretary, or his successor, at any time in his discretion. Further, it gives no right whatever to take from public lands, reservations, or parks adjacent to the right of way any materials, earth, or stone, for construction or other purposes. The final disposal by the United States of any tract traversed by a right of way permitted under this act shall not be considered to be a revocation of such permission in whole or in part but such final disposal shall be deemed and taken to be subject to such right of way until such permission shall have been specifically revoked in accordance with the provisions of said act."

The effect of this modification is a departmental recognition of the fact that a permit, under the act of February 15, 1901 (31 Stat., 790), once having been issued is a subsisting burden upon the land even after patent, until canceled by the Secretary of the Interior.

You should, therefore, as a matter of warning, note upon all applications to appropriate public lands, affected by a previously filed application under the act of 1901, the words "subject to right of way act of February 15, 1901 (stating name of permittee)."

This notation need not be made upon the final certificate when issued, and will not be carried into the patent.

It should be noted, however, that a permit under the act of 1901, for hydroelectric power purposes is construed as being tantamount to a withdrawal of the land for power purposes, the lands affected can be disposed of only subject to the terms and conditions of section 24 of the Federal water power act.

Very respectfully,

WILLIAM SPRY,
Commissioner.

Circular No. 1005.

EVIDENCE REGARDING CITIZENSHIP IN PUBLIC LAND CASES.

1469

(Circular No. 599 superseded.)

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Superseded – See Circ. 1726

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

May 1, 1925.

Registers and Receivers,
United States Land Offices.

Gentlemen:

The following instructions relative to accepting evidence of citizenship in public land cases and returning citizenship papers to the parties will supersede the instructions (Circular No. 599) of May 14, 1918 (46 L. D., 382):

1. Evidence of a declaration of intention to become a citizen executed more than 7 years before the date of the filing, unless it be shown that there is pending a petition for naturalization pursuant thereto filed within 7 years after the date of the declaration, is not acceptable.

2. You may hereafter accept as evidence of any party's status a triplicate declaration of intention to become a citizen of the United States or an original certificate of naturalization. However, a certified copy of the paper made by the clerk of the court whence it issued is preferred, and if the copy is of a paper issued after September 26, 1906, it should be on the form prescribed by the Bureau of Naturalization. It is to the party's advantage to file a certified copy, since the triplicate declaration of intention to become a citizen is needed by him when petitioning for admission to citizenship, while the original certificate of naturalization may be lost or mutilated.

3. Triplicate declaration of intention to become a citizen, provided it has not become invalid by reason of its statutory life, or original certificate of naturalization will be returned by this office to the party upon request therefor or to any other person making request, provided it be clearly shown that the person applying is the proper person to receive the paper.

Very respectfully,

THOS. C. HAVELL,

Acting Commissioner.

Approved: May 1, 1925.
E. C. FINNEY,
First Assistant Secretary.

JUN 1 - 1925

Circular No. 1011.

FURTHER EXTENSION OF TIME FOR SUBMISSION OF FINAL PROOF ON DESERT LAND ENTRIES, ACT FEBRUARY 25, 1925.

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DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 23, 1925.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Your attention is directed to the act of February 25, 1925 (Public No. 477, 68th Congress), which provides:

> That the Secretary of the Interior may, in his discretion, in addition to the extensions authorized by existing law, grant to any entryman under the desert-land laws of the United States a further extension of time of not to exceed three years within which to make final proof; Provided, That such entryman shall, by his corroborated affidavit, filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of the irrigation works intended to convey water to the land embraced in his entry, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor: And Provided Further, That the entryman, his heirs, or his duly qualified assignee, has in good faith complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that if the extension is granted he will be able to make the final proof of reclamation, irrigation, and cultivation required by law.

Applications for further extension of time under the act of February 25, 1925, may be made in the same manner and the same procedure will be followed with respect to such applications as under the acts of March 28, 1908 (35 Stat., 52), April 30, 1912 (37 Stat., 106), and the act of March 4, 1915 (38 Stat., 1161), as amended by the act of March 21, 1918 (40 Stat., 458).

Very respectfully,

WILLIAM SPRY,
Commissioner.

Approved: May 23, 1925.
E. C. FINNEY,
First Assistant Secretary.

1920

Circular No. 1013.

GENERAL INFORMATION RELATIVE TO SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 1, 1925.

Any officer, soldier, seaman, or marine who served for not less than 90 days in the Army or Navy of the United States during the Civil War, receiving an honorable discharge therefrom, and who, prior to June 22, 1874, the date of the adoption of the Revised Statutes, made a homestead entry for less than 160 acres, may, under section 2306, Revised Statutes, enter an additional quantity of land which added to the previous entry will not aggregate more than 160 acres.

This right was extended by section 2307, Revised Statutes, to the widow, if unmarried, otherwise to the minor orphan children. The soldier's additional right may be used (1) by the soldier in his lifetime either directly by entering the land or indirectly, in his lifetime, by conveying his right to entry to an assignee; or (2), similarly, by the widow, while her status as widow of the soldier continues; or (3), similarly, in the absence of appropriation by the soldier or his widow, by the minor orphan children, during their minority, acting through their lawful guardian. If this right is not exercised in the manner indicated and within the term during which it is appropriable, the right lapses and ceases to exist. Unused, it never becomes an asset of the estate of the soldier, widow, or child. This construction of the law is very fully explained in a separate circular, No. 528.

Under the decision of the Supreme Court of the United States in the case of Webster vs. Luther (163 U. S., 331), the right is ASSIGNABLE, and residence and cultivation are not required in its location, either by the original beneficiary or by his assignee, no matter whether the original entry was perfected or abandoned. In view of these facts these rights are eagerly sought by so-called "scrip dealers," who make inquiries calculated to disclose the existence of such rights, negotiate for the purchase of assignments thereof, and afterwards sell the rights so procured to parties desiring to locate them upon vacant public lands. Considerable fraud has been detected in connection with these rights, caused by matching the name of a soldier with that of an entryman, and several convictions have been secured against persons guilty of such practice. (See U. S. vs. Davis, 231 U. S., 183.) All persons are cautioned against signing any assignment or affidavit in connection with the sale of these rights unless they are sure as to the truth of the statements contained therein. What these scrip dealers propose to purchase is not the land entered, but the right to make additional entry for the difference between the area of the land entered and 160 acres. Soldiers of the Civil War and their widows receiving inquiries from these scrip dealers must not assume because the scrip dealer has found a record of an entry made by a person with a name merely similar to that of the soldier, or even of the same name, that the entry was in fact made by the soldier and that an additional right exists. Practically all of the letters addressed to such persons by script dealers are merely letters of inquiry, and it has been found that such letters of inquiry are being addressed to scores of persons having names similar to those of persons who made entries prior to June 22, 1874; for instance, scrip dealers have written to

1920

Dozens of persons bearing names such as John Adams, John A. Adams, John B. Adams, John C. Adams, etc., asking whether the soldier addressed, or the husband of the widow addressed, was the same person who made an entry in the name of John Adams. Soldiers should bear in mind that there are many persons having similar names, and that the entry may have been made by a person who was never a soldier. This office did not maintain a general alphabetical index of the names of entrymen prior to July 1, 1908, therefore, an entry made prior to that date can not be identified on the records from the name of the party. If this circular is sent in reply to an inquiry regarding an entry which has been vaguely described by some scrip dealer it is suggested that the writer of the inquiry request the scrip dealer to give him or her a full description of the entry, by subdivision, section, township, and range, and the name of the State in which the land is located, or there should be given the name of the county as well as the name of the State in which the entry is located, together with the date or approximate date of the entry, showing at least the year in which such entry was made, or the serial number of the entry, and the name of the local land office, and the final certificate number, if any, should be furnished, so as to enable this office to identify the entry on the records.

This office does not pass upon the question of whether or not an additional right exists in the absence of an application for a specific tract of land, which must be accompanied by a record of the military service, description of the entry made prior to June 22, 1874, competent evidence showing identity of the soldier with the entryman, that no subsequent entry has been made, and that the right has not been previously assigned. If the right is sought to be located by an assignee, appropriate evidence must be submitted showing that he is entitled thereto by assignment.

If it is desired to personally exercise such a right, the owner thereof must first select a tract of land and then file formal application therefor in the United States local land office for the district in which the land desired is situated, accompanying the same with the evidence as to existence and ownership of the right above indicated. The required non-mineral and non-occupancy affidavits are embodied in the form prescribed for soldiers' additional applications. Further information and the necessary blank forms for making such applications will be furnished by the local land office for the district in which the particular tracts desired are situated.

The purchase and sale of these rights is a private transaction in which the Government is not interested until an application is presented for a specific tract of land; therefore this office can furnish no information as to the value of such rights. The purchase price must be fixed by agreement between the parties interested. This office has no blank forms of assignment.

There is no law under which soldiers or their widows can be given 160 acres of land merely by reason of military service. No specific tracts of land were given to soldiers of the Civil War; the bounties given for service in that war were paid in money. The soldier's additional homestead right exists only under the circumstances stated in the first paragraph of this letter. Certain privileges are granted to soldiers, their widows, and minor orphan children in connection with the general homestead laws, but these privileges are not assignable and can only be asserted in connection with an actual entry upon vacant public land upon which they will have to meet certain requirements as to residence, cultivation and improvements. A separate circular, number 302, is issued on this subject.

WILLIAM SPRY,
Commissioner.

CIRCULAR No. 1020 [2]

REGULATIONS FOR THE SALE OF LOTS IN THE TOWN SIT
MINIDOKA, IDAHO

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 3, 19

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: By Executive order No. 2962 of September 16, 1918, SW. ¼ NW. ¼ sec. 1, SE. ¼ NE. ¼ sec. 2, T. 8 S., R. 25 E., B. was reserved for town-site purposes to be disposed of under sec 2381, R. S. The land has been divided into lots and blocks and survey was accepted July 24, 1923. You are therefore directed cause the unreserved lots in the town site of Minidoka, Idaho, to offered for sale at said town site on Monday, September 14, at public outcry to the highest bidder at not less than their appra value, respectively, in the manner and on the terms hereinafter scribed and under the supervision of the Commissioner of the Gen Land Office, continuing from day to day as long as may be neces

Manner.—Bids may be made either in person or by agent, but by mail nor at any time or place other than the time and place and where the lots are offered for sale hereunder, and any per may purchase any number of lots for which he is the highest bid bidders will not be required to show any qualifications as to age, tizenship, or otherwise. If any successful bidder fails to make the yment required on the date of sale, the lot awarded to him shall reoffered for sale on the following day.

Terms.—No lot will be disposed of for less than its appraised value. ne-third of the bid price shall be paid on the date the bid is ac pted and the balance of the purchase price may be paid in two ual installments in one and two years from the date of the sale. nterest at the rate of 5 per cent per annum will be charged on de rred installments from the date of sale. No entry will be allowed ntil payment has been made in full for the lot, but in case of partial ayment there will be issued to the purchaser a nontransferable mem randum duplicate certificate as per Form 4–014; the register in such ase will issue a receipt (Form 4–131) for the money paid. Nothing erein will prevent the transfer of interests secured by the purchase nd the partial payment of the lot, by deed, but the assignee will cquire no greater right than that of the original purchaser and the nal entry and patent will issue to the original purchaser when all ayments are made.

Forfeiture.—If any person who has made partial payment on the ot purchased fails to make any succeeding payment, required under these regulations, at the date such payment becomes due, the money eposited by such person for such lot will be forfeited and the lot fter forfeiture is declared will be subject to disposition. Lots re maining unsold at the close of the sale will be subject to private entry or cash at their reappraised value, or lots thereafter declared for eited for nonpayment of any sum of the purchase price, under the erms of the sale, will be subject to private entry for cash at the price id at sale for such lots.

All persons are warned against forming any combination or agree ment which will prevent any lot from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons o offending will be prosecuted under section 59 of the Criminal Code of the United States, which reads as follows:

> Whoever, before or at the time of the public sale of any of the lands of the nited States, shall bargain, contract, or agree, or attempt to bargain, contract, agree with any other person, that the last-named person shall not bid upon or rchase the land so offered for sale, or any parcel thereof; or whoever by timidation, combination, or unfair management shall hinder or prevent, or tempt to hinder or prevent, any person from bidding upon or purchasing any ct of land so offered for sale, shall be fined not more than one thousand llars, or imprisoned not more than two years, or both.

The commissioner, or his representative, conducting the sale is thorized to reject any and all bids for any lot and at any time spend, adjourn, or postpone the sale of any lot or lots to such time d place as he may deem proper and to reappraise any lot or lots.

The newspapers in the vicinity of the land should be given a state ent concerning the sale as an item of news, and such other publicity ould be given it as can be done without expense.

Very truly yours,

E. C. FINNEY,
First Assistant Secretary.

See Circular No. 1044, p. 1549.

CIRCULAR No. 1017

REGULATIONS FOR THE SALE OF TOWN LOTS IN THE TOWN OF HAYS AND LODGE POLE, IN THE FORT BELKNAP IN RESERVATION, MONT.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 16, 19

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: Under the provisions of the act of March 3, 1921 (41 1355), and R. S. 2381, you are directed to cause the unreserved in the town sites of Hays and Lodge Pole, Mont., to be offered sale in the town site of Hays on Monday, August 24, 1925, and in town site of Lodge Pole on Wednesday, August 26, 1925, at pu licty to the highest bidder at not less than their appraised value, spectively, in the manner and on the terms hereinafter described d under the supervision of the Commissioner of the General Land ice continuing from day to day as long as may be necessary.

Manner.—Bids may be made either in person or by agent but not y mail nor at any time or place other than the time and place when d where the lots are offered for sale hereunder, and any person may rchase any number of lots for which he is the highest bidder. idders will not be required to show any qualifications as to age, izenship, or otherwise. If any successful bidder fails to make the yment required on the date of sale the lot awarded to him shall reoffered for sale on the following day.

Terms.—No lot will be disposed of for less than its appraised lue. One-third of the bid price shall be paid on the date the bid accepted and the balance of the purchase price may be paid in two qual installments in one and two years from the date of the sale, terest at the rate of 5 per cent per annum will be charged on de rred installments from the date of sale. No entry will be allowed ntil payment has been made in full for the lot, but in case of partial ayment there will be issued to the purchaser a nontransferable morandum duplicate certificate as per Form 4–014; the receiver such case will issue a receipt (Form 4–131) for the money paid. othing herein will prevent the transfer of interest secured by the rchase and the partial payment of the lot, by deed, but the assignee ll acquire no greater right than that of the original purchaser and e final entry and patent will issue to the original purchaser when l payments are made.

Preference right.—The act of March 3, 1921, section 5, provides:

> That any person who, at the date when the appraisers commence their work on the land, shall be an actual resident upon any one such lot and the owner substantial and permanent improvements thereon, and who shall maintain or her residence and improvements on such lot to the date of his or her plication to enter, shall be entitled to enter, at any time prior to the day ed for the public sale and at the appraised value thereof, such lot and any o additional lots of which he or she may also be in possession and upon hich he or she may have substantial and permanent improvements: *And rovided further*, That before making entry of any such lot or lots the appli nt shall make proof, to the satisfaction of the register and receiver of the nd district in which the land lies of such residence, possession, and ownership improvements, under such regulations as to time, notice, manner, and aracter of proofs as may be prescribed by the Commissioner of the General nd Office, with the approval of the Secretary of the Interior: *And provided rther*, That in making their appraisal of the lots so surveyed, it shall be the y of the appraisers to ascertain the names of the residents upon and occu nts of any such lots, the character and extent of the improvements thereon, d the name of the reputed owner thereof, and to report their findings in nnection with their report of appraisal, which report of findings shall be en as prima facie evidence of the facts therein set out.

The application for preference right should be presented before e date of the public sale, accompanied by proof in support thereof the form of a corroborated affidavit, setting forth the facts as to idence, showing when it began and the length thereof, ownership d value of improvements, and any other pertinent facts.

orfeiture.—If any person who has made partial payment on the purchased fails to make any succeeding payment, required under ese regulations, at the date such payment becomes due, the money eposited by such person for such lot will be forfeited and the lot

after forfeiture is declared will be subject to disposition. Lots remaining unsold at the close of the sale will be subject to private entry for cash at their reappraised value, or lots thereafter declared forfeited for nonpayment of any sum of the purchase price, under the terms of the sale will be subject to private entry, for cash at the price bid at sale for such lots.

All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons so offending will be prosecuted under section 59 of the Criminal Code of the United States, which reads as follows:

> Whoever, before or at the time of the public sale of any of the lands of the United States, shall bargain, contract, or agree, or attempt to bargain, contract, or agree with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof; or whoever by intimidation, combination, or unfair management shall hinder or prevent, or attempt to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

The commissioner, or his representative conducting the sale, i authorized to reject any and all bids for any lot and at any tim suspend, enjoin, or postpone the sale of any lot or lots to such tim and place as he may deem proper, and to reappraise any lot or lot remaining unsold at the close of sale.

Very truly yours,

E. C. FINNEY,
First Assistant Secretary.

Circular 1031.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington September 17, 1925.

Instructions.
Circular 1021 modified.

Registers,

United States Land Offices.

Gentlemen:

Circular No. 1021, approved July 21, 1925, containing instructions as to action on nonmineral applications filed subsequent to applications for prospecting permits or leases, is hereby modified by the insertion therein--immediately preceding the penultimate paragraph thereof--of the following additional provision;

Where a mineral lessee or permittee shows cause or protests against the allowance of a nonmineral entry or selection with proper mineral reservation and upon which waiver of compensation has been filed, the showing or protest shall be forwarded by the General Land Office with the application to make nonmineral entry or selection, to the Geological Survey for report and recommendation as to whether or not the granting of any additional surface rights over and above those of the lessee or permittee, as the case may be, would seriously or substantially embarrass or hinder such lessee or permittee in his operations.

If the Geological Survey shall conclude and report that the granting of additional surface rights to a nonmineral entryman or selector will so embarrass and hinder the mineral lessee or permittee in conducting operations under his lease or permit, as the case may be, then the General Land Office will reject the nonmineral filing, but if the report and conclusion of the Geological Survey shall be to the contrary then the entry or selection may be allowed.

E. C. FINNEY,

First Assistant Secretary.

Circular 1036.

INSTRUCTIONS UNDER THE OIL AND GAS LEASING ACT. PARAGRAPH 4 (c) OF CIRCULAR NO. 672, AMENDED.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

October 16, 1925.

Registers,
U. S. Land Offices.

Gentlemen:

The Department has decided that no person can under the law be allowed to have more than three proceedings, being, or having originated in, applications for permits under Sec. 13 of the leasing act, pending or subsisting at the same time for lands in one State, and in order that applicants for oil and gas permits, may show their qualifications, as so determined, paragraph 4 (c) Circular No. 672 (47 L. D., 437) is hereby amended so as to read:

(c) A statement that the applicant is not the holder of, nor has pending applications for, more than two other oil and gas permits in the same State, nor holder of or applicant for any other permit in the same geologic structure, together with a statement of any other applications for permits or permits issued in the same State in which the applicant is directly or indirectly interested, fully disclosing the nature and extent of such interests, is required. In this connection attention is directed to the limitations and exceptions of Sec. 27 of the act.

In all cases where applicants fail to show their qualifications as above indicated, you will allow them 15 days from notice thereof within which to cure the defects; but when an application is filed that shows the applicant disqualified by having three such proceedings pending in the State or one in the same geologic structure, you will reject the same subject to the right of appeal within 15 days from notice thereof.

All instructions or regulations in conflict herewith are hereby amended so as to conform hereto.

You will give the widest publicity to the above regulations that may be possible without expense to the United States.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: October 16, 1925.
E. C. FINNEY,
First Assistant Secretary.

Circular No. 1037.

ABSENCE OF HOMESTEADERS FROM THEIR CLAIMS ON ACCOUNT OF JUDICIAL RESTRAINT. CIRCULAR NO. 570 MODIFIED.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

October 31, 1925.

Registers,

United States Land Offices.

Gentlemen:

Departmental decision of July 31, 1925 (51 L. D., 174), upon the appeal of George L. Kile, modified instructions of October 20, 1917, relating to homestead entrymen who are placed under judicial restraint.

Pursuant to the said decision Circular No. 570, containing instructions of November 3, 1917, is hereby amended as follows:

Since under said decision the period of suspension of an entry is no longer to be concurrent with the period of the entryman's incarceration but is left to the discretion of the Commissioner of the General Land Office, you will hereafter upon the filing of evidence of judicial restraint refer the case to this office for consideration and appropriate action.

This office will then grant a period of suspension, having regard to the facts and circumstances adduced, with a view to affording the entryman full opportunity to perfect or dispose of his entry.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Circular No. 1038.

FORT MAGINNIS ABANDONED MILITARY RESERVATION.--INSTRUCTIONS.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

October 30, 1925.

Register,

Billings, Montana.

Sir:

Fort Maginnis Military Reservation, Montana, was turned over to the Department of the Interior for disposition under the act of July 5, 1884 (23 Stat., 103), or as may be otherwise provided by law, on August 6, 1890. The reservation exceeded 5,000 acres and was mostly opened to homestead settlement and entry under the act of August 23, 1894 (28 Stat., 491), and the regulations approved September 22, 1897 (25 L. D., 260).

The unsurveyed portions of Ts. 16 and 17 N., R. 20 E., were subject to settlement but were not opened to entry at that time. Such portion of T. 16 was surveyed and the plat thereof approved April 24, 1914, and filed in the local land office at Lewistown, Montana, May 19, 1915. Such portion of T. 17 is shown to be surveyed by a plat approved December 19, 1907, filed March 27, 1908, and plat of mineral segregation survey of August 9, 1919, accepted December 4, 1920, and supplemental plat of November 24, 1922.

The appraisers have appraised the remaining lands on this reservation at from 75 cents to $12 per acre. The Secretary of the Interior has approved the appraisal of the lands appraised at $1.25 or more per acre and has fixed a minimum price of $1.25 per acre for lands appraised at less than $1.25 per acre.

Except lots 1 and 2, Sec. 20, T. 16 N., R. 20 E., P. M., lots 5, 6, 16, 17, 18, 19, 20, 22, and 23, Sec. 22, lots 10, 11, and 12, Sec. 23, lots 1, 2, and 3, NW$\frac{1}{4}$ NE$\frac{1}{4}$ Sec. 27, and lots 1, 2, 3, and 4, Sec. 33, T. 17 N., R. 20 E., P. M., all the land has been reported as prospectively valuable for gold and silver. Furthermore, it is reported by the appraisers that there are mining locations on various parts of the land. If these locations are valid and based on a sufficient discovery maintained in accordance with law, the locators have vested rights not only to the minerals but to the surface within their locations and such tracts can not be otherwise disposed of, but must eventually be segregated.

Applications for lots 1 and 2, Sec. 20, T. 16 N., R. 20 E., P. M. (classified as coal land), must be made subject to the provisions and reservations of the act of June 22, 1910 (36 Stat., 583), or of the stock-raising homestead act.

Except as to the land covered by valid mining locations, the subdivisions which have been reported as prospectively valuable for gold and silver may be entered under the stock-raising homestead act if and when designated as subject to entry thereunder.

However, except in so far as covered by valid mining locations, such subdivisions may be entered under the general homestead law, or under the enlarged-homestead act, if designated thereunder, if it is shown by the affidavits of at least two experts or practical miners that the land is not in fact valuable for gold or silver, this in addition to the usual non-mineral affidavit.

Lands containing metalliferous minerals are subject to disposition under the mining laws.

Subject to the foregoing limitations, all of the lands described in the appraised list will become subject to entry under the homestead law and as provided in the act of August 23, 1894 (28 Stat., 491), at not less than the appraised price thereof by ex-service men of the War with Germany, under the terms and conditions of Public Resolution No. 29 of February 14, 1920 (41 Stat., 434), as amended by Public Resolution No. 36, approved January 21, 1922 (42 Stat., 358), Circular No. 822, for a period of 91 days, beginning with the 28th day from the date hereof. Thereafter any of said land remaining unentered will be subject to settlement and homestead entry by the general public.

Subsequent to the approval of these regulations and prior to the date of restoration to general disposition as herein provided for, no rights may be acquired to said land by settlement in advance of entry, or otherwise, except strictly in accordance herewith.

Persons having valid existing rights or equitable claims may avoid confusion by asserting such rights during the 20 days preceding the soldier's preference right period.

Ex-service men should file certified copies of their certificates of discharge with their applications, and persons claiming other preference rights should file affidavits supporting such claims with their applications.

Entries under the enlarged-homestead act, the stock-raising act and entries subject to the act of June 22, 1910, supra, may not be commuted. However, as to entries made under the general homestead law, entryman may at his option commute after fourteen months from the date of settlement, with full payment in cash. In all cases where three year proof is submitted and after its acceptance entryman may pay for the land the full amount of the appraised value thereof, without interest or he may make payment in five equal installments, the first payment to be made one year after the acceptance of his final proof, and the subsequent payments to be made annually thereafter, interest to be charged at the rate of 4 per cent per annum from the date of the acceptance of final proof until all payments are made.

In case the full amount is paid after fourteen months from date of settlement you will, if the proof is satisfactory, issue cash certificate and receipt; and in the event that regular final proof is made and the full amount then paid, you will issue final certificate and receipt; but when partial payments are made, you will issue a receipt only for the amount of the principal and the interest paid, and at the time last payment is made, you will issue the final papers as in ordinary homestead entries.

In issuing final papers you will make the proper annotations thereon, as well as on the applications and abstracts, to show that the entry covers land in Fort Maginnis Reservation.

Where, upon submitting final proofs the entrymen elect to make payment for the lands entered in five annual installments, you are authorized to make the usual charges for reducing the testimony to writing, but as the final certificate and receipt can not be issued until the last payment is made, you can not charge the final commissions until said certificate and receipt are issued. Therefore, if the proofs submitted are acceptable, you will make proper notes on your records showing that satisfactory proofs have been made and the dates upon which the partial payments must be made, and then transmit said proofs to this office for filing with the original entries.

Lots 7 and 10, Sec. 3, and lots 1, 2, 3, 6, 7, 8, 9, 10, and 11, Sec. 17, T. 16 N., R. 20 E., have been patented for more than six years and although such tracts have been appraised and entered on said appraisement list, they are not subject to disposal under this appraisal. See the act of March 3, 1891 (26 Stat., 1093). Lots 1, 8, and 9, Sec. 30, T. 16 N., R. 20 E., are claimed by William F. Sherman, who has made stock raising additional homestead entry Lewistown 039072 for same, while lot 4, NE¼ NE¼, SW¼ NE¼ Sec. 27, T. 17 N., R. 20 E., are included in the additional homestead entry of Edward Fields, Billings 027032 formerly Lewistown 034720 and the SW¼ NE¼, W½ SE¼ Sec. 28, lots 1, 2, 3, and 4, NE¼ NW¼ Sec. 33, T. 17 N., R. 20 E., are covered by stock raising additional homestead entry Lewistown 040382 made by Reginald J.Meller. These entries will form the subject of further communications.

It is reported that William Swank has three mining locations on lot 15, Sec. 5, T. 16 N., R. 20 E.; that William Vine has mining locations on lots 8 and 15, Sec. 19, T. 16 N., R. 20 E., and that Henry Willard has two mining locations on the SE¼ NW¼, SW¼ NW¼, Sec. 33, T. 17 N., R. 20 E., and has a cabin on the NE¼ SW¼ said Sec. 33.

You will upon receipt hereof make the proper notations of this order upon your records, post a copy hereof in your office and give as much publicity as possible to the opening as a matter of news without expense to the Government, by forwarding a copy of the order to the post office nearest the land for posting therein for the information of the public and by transmitting copies of such order or an item concerning the opening to the newspapers published nearest the land, being careful not to send such notice or items without calling particular attention to the fact that the same is sent as news and that the Government will not be responsible for the cost of any publication thereof.

Promptly report your compliance with the instructions herein contained.

Very respectfully,

D. K. PARROTT,

Acting Assistant Commissioner.

Approved: October 30, 1925.

E. C. FINNEY,

First Assistant Secretary.

MEMORANDUM OF EFFECTIVE DATES OF ORDER

Date of order October 30, 1925.
Soldiers Preference right period from November 27, 1925, to February 26, 1926, inclusive.
Soldiers Simultaneous filing period from November 7, 1925, to November 26, 1925, inclusive.
Land opened to general disposition February 27, 1926.
Simultaneous filing period for general public from February 7, 1926, to February 26, 1926.

ABANDONED FORT MAGINNIS, MONTANA.

Schedule of Lands and Appraised Prices.

T. 16 N., R. 20 E., P. M., Montana.

Description.	Sec.	No. of acres.	Value per acre.	Total value.
Lot 3	3	20.05	$1.25	$25.06
Lot 4	3	20.18	1.25	25.23
Lot 5	3	40.95	1.25	51.19
Lot 6	3	40.69	1.50	61.03
Lot 7	3	40.85	1.25	51.06
Lot 8	3	40.76	1.25	50.95
Lot 9	3	40.41	1.25	50.50
Lot 10	3	40.50	1.25	50.62
Lot 1	4	19.39	1.25	24.23
Lot 2	4	19.56	1.25	24.45
Lot 3	4	19.74	1.25	24.66
Lot 4	4	19.00	1.25	23.75
SE¼ NE¼	4	40.00	1.25	50.00
SW¼ NE¼	4	40.00	1.25	50.00
SE¼ NW¼	4	40.00	2.75	110.00
SW¼ NW¼	4	40.00	2.75	110.00
NE¼ SW¼	4	40.00	3.00	120.00
NW¼ SW¼	4	40.00	1.25	50.00
SW¼ SW¼	4	40.00	1.25	50.00
SE¼ SW¼	4	40.00	1.25	50.00
NE¼ SE¼	4	40.00	1.25	50.00
NW¼ SE¼	4	40.00	1.25	50.00
SE¼ SE¼	4	40.00	1.25	50.00
SW¼ SE¼	4	40.00	1.25	50.00
Lot 7	5	7.86	1.25	9.82
Lot 8	5	30.33	1.25	37.91
Lot 15	5	35.87	3.50	125.54
Lot 6	5	.77	3.00	2.31
Lot 1	8	35.68	4.00	142.72
Lot 6	8	35.46	4.00	141.84
Lot 7	8	35.93	1.25	44.91
Lot 11	8	39.12	1.25	48.90
Lot 12	8	33.08	1.25	41.35
Lot 13	8	41.17	1.25	51.46

Description.	Sec.	No. of acres.	Value per acre.	Total value.
SE$\frac{1}{4}$ SE$\frac{1}{4}$	8	40.00	$1.25	$50.00
Lot 14	7	8.36	1.25	10.45
Lot 15	7	8.92	1.25	11.15
Lot 1	9	40.98	1.25	51.22
Lot 2	9	40.87	1.25	51.22
Lot 3	9	39.63	1.50	59.44
Lot 4	9	39.52	5.00	197.60
Lot 5	9	39.63	5.00	198.15
Lot 6	9	39.74	3.00	119.22
Lot 7	9	40.83	1.25	51.03
Lot 8	9	40.95	1.25	51.18
Lot 9	9	38.77	1.25	48.46
Lot 10	9	38.99	1.25	48.74
Lot 11	9	39.13	1.25	48.91
Lot 12	9	38.88	1.25	48.60
Lot 1	17	27.62	3.00	82.86
Lot 2	17	20.68	2.00	41.36
Lot 3	17	16.38	1.25	20.47
Lot 4	17	.16	1.25	.20
Lot 5	17	8.12	1.25	10.15
Lot 6	17	17.71	3.00	53.13
Lot 7	17	28.42	5.00	142.10
Lot 8	17	38.18	10.00	381.80
Lot 9	17	17.52	12.00	210.24
Lot 10	17	13.59	2.50	33.97
Lot 11	17	27.82	6.00	166.92
Lot 1	18	34.27	1.25	42.84
Lot 8	18	7.89	1.25	9,86
Lot 9	18	.05	1.25	.06
Lot 10	18	3.76	1.25	4.70
Lot 18	18	6.47	1.25	8.09
Lot 1	19	13.65	1.25	17.06
Lot 8	19	28.71	1.25	35.89
Lot 15	19	35.16	1.25	43.95
Lot 1	20	1.57	2.00	3.14
Lot 2	20	.22	5.00	1.10
Lot 1	30	34.44	1.25	43.05
Lot 8	30	34.62	1.25	43.27
Lot 9	30	30.05	1.25	37.56

T. 17 N., R. 20 E., P. M., Montana.

Description.	Sec.	No. of acres.	Value per acre.	Total value.
Lot 2	20	33.84	$1.25	$42.30
Lot 4	20	33.53	1.25	41.91
Lot 6	20	33.21	1.25	41.51
Lot 8	20	29.23	1.25	36.53
Lot 10	20	36.12	1.25	45.15
SE¼ SW¼	20	40.00	1.25	50.00
SW¼ SE¼	20	40.00	2.00	80.00
SE¼ SE¼	20	40.00	2.00	80.00
Lot 6	21	39.05	1.25	48.81
Lot 7	21	34.08	1.25	42.60
Lot 8	21	34.05	1.25	42.56
Lot 9	21	34.01	1.25	42.51
Lot 10	21	32.91	1.50	49.36
Lot 11	21	46.21	1.25	57.76
Lot 5	22	37.99	1.25	47.48
Lot 6	22	37.96	1.25	47.45
Lot 16	22	21.14	1.25	26.42
Lot 17	22	13.52	1.25	16.90
Lot 18	22	3.48	1.25	4.35
Lot 19	22	5.40	1.25	6.75
Lot 20	22	12.23	1.25	15.29
Lot 21	22	34.95	1.25	43.69
Lot 22	22	37.71	1.25	47.14
Lot 23	22	38.03	1.25	47.53
Lot 10	23	40.06	1.25	50.07
Lot 11	23	38.78	1.25	48.47
Lot 12	23	39.36	3.00	118.08
Lot 1	27	40.26	1.25	50.32
Lot 2	27	40.36	1.25	50.45
Lot 3	27	40.06	1.25	50.07
Lot 4 or SE¼ NW¼	27	39.96	1.25	49.95
NE¼ NE¼	27	40.00	1.25	50.00
NW¼ NE¼	27	40.00	1.25	50.00
SW¼ NE¼	27	40.00	1.25	50.00
Lot 1	28	42.24	1.25	52.80
Lot 2	28	40.26	1.25	50.32
Lot 3	28	37.70	1.50	56.55
Lot 4	28	33.75	1.50	50.62

Description.	Sec.	No. of acres.	Value per acre.	Total value.
Lot 5	28	41.60	$1.25	$52.00
NW¼ SE¼	28	40.00	1.50	60.00
SW¼ SE¼	28	40.00	1.25	50.00
SW¼ NE¼	28	40.00	1.25	50.00
SE¼ NW¼	28	40.00	1.50	60.00
SW¼ NW¼	28	40.00	1.25	50.00
NE¼ SW¼	28	40.00	1.25	50.00
NW¼ SW¼	28	40.00	1.25	50.00
SE¼ SW¼	28	40.00	1.25	50.00
SW¼ SW¼	28	40.00	1.25	50.00
Lot 1	29	36.81	1.25	46.01
Lot 4	29	37.51	1.25	46.89
Lot 5	29	38.21	1.25	47.76
Lot 8	29	38.91	1.25	48.64
NE¼ NW¼	29	40.00	1.25	50.00
SE¼ NW¼	29	40.00	1.25	50.00
NE¼ SW¼	29	40.00	1.25	50.00
SE¼ SW¼	29	40.00	1.25	50.00
NE¼ NE¼	29	40.00	1.25	50.00
NW¼ NE¼	29	40.00	2.50	100.00
SE¼ NE¼	29	40.00	1.25	50.00
SW¼ NE¼	29	40.00	1.25	50.00
NE¼ SE¼	29	40.00	1.25	50.00
NW¼ SE¼	29	40.00	1.25	50.00
SW¼ SE¼	29	40.00	1.25	50.00
SE¼ SE¼	29	40.00	1.25	50.00
Lot 4	31	.31	3.00	.93
Lot 6	31	1.01	3.00	3.03
Lot 10	31	.51	3.00	1.53
Lot 1	32	39.60	1.25	49.50
Lot 3	32	33.09	2.00	66.18
Lot 4	32	12.03	1.50	18.04
Lot 5	32	9.61	1.75	16.81
Lot 6	32	24.93	3.00	74.79
Lot 7	32	44.65	1.75	78.13
Lot 8	32	25.58	3.00	76.74
Lot 9	32	32.31	4.00	129.24
Lot 10	32	3.86	3.00	11.58
Lot 11	32	28.10	2.00	56.20

Description.	Sec.	No. of acres.	Value per acre.	Total value.
Lot 12	32	23.44	$1.25	$29.30
Lot 13	32	38.86	1.25	48.57
NE¼ NE¼	32	40.00	1.25	50.00
NW¼ NE¼	32	40.00	1.25	50.00
NE¼ NW¼	32	40.00	1.25	50.00
NE¼ SE¼	32	40.00	1.50	60.00
SW¼ NW¼	32	40.00	3.00	120.00
Lot 1	33	41.61	1.50	62.41
Lot 2	33	41.29	1.50	61.93
Lot 3	33	41.18	1.50	61.77
Lot 4	33	41.94	1.50	62.91
NE¼ NW¼	33	40.00	1.25	50.00
NW¼ NW¼	33	40.00	1.25	50.00
SE¼ NW¼	33	40.00	1.50	60.00
SW¼ NW¼	33	40.00	1.50	60.00
NE¼ SW¼	33	40.00	2.00	80.00
NW¼ SW¼	33	40.00	2.00	80.00
SE¼ SW¼	33	40.00	1.50	60.00
SW¼ SW¼	33	40.00	1.25	50.00
	Total,	5,458.00	Total,	$9,251.22

Circular No. 1041.

OIL AND GAS. EXTENSIONS OF TIME. INSTRUCTIONS SUPPLEMENTAL TO CIRCULAR NO. 946 (50 L. D., 567).

Supplemented by Circ. 1063

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

November 11, 1925.

Registers,

United States Land Offices.

Gentlemen:

On November 4, 1925, in a letter addressed to this office, the Department issued as supplemental to the instructions contained in Circular No. 946 (50 L. D., 567), the following regulations:

> "Contribution development programs should be submitted to the Department at their inception in order that it may be determined whether, upon the facts disclosed in a given case, any and all permittees proposing to contribute may do so with the assurance that so long as the test is diligently prosecuted through their efforts, but limited to the period provided for in the leasing act and the act of January 11, 1922, supra, drilling on their own permits will be excused.
>
> In cases of individual applications for extension of time, every applicant must show by legal subdivisions, section, township, and range where the test well is being, or is to be drilled.
>
> Every application of this nature will be referred to the Geological Survey for report. If the Survey shall report unfavorable the application will be rejected by you, subject to appeal. If the Survey shall report that it is without sufficient data as to structures in the region upon which to base any recommendation, only contributions by permittees the greater portions of whose permit areas are within a six mile square formed by going three miles in each cardinal direction from the northeast corner of the legal subdivision on which the test well is found, or from the corner nearest which the test well is shown to be found, will be recognized. This is of necessity, a rule of administration, but it is warranted upon the reasoning and holding in the case of Helen F. Curns (50 L. D., 353).
>
> The purchase of capital stock of a corporation which is drilling for oil or gas in unproven territory and which is dependent upon the sale of its stock for the continuation of its drilling operations, by the holder of a prospecting permit for lands upon the same structure as that where the drilling is carried on may be considered a contribution towards the cost

of proving the structure which will warrant allowance of extension of time in which to comply with the terms of his permit, if contribution may be considered acceptable in other respects, and if the stock does not have a market value or is not salable. Clearly, if the stock has a market value the stock is in itself a consideration for the purchase price and there is no contribution as contemplated here. Purchase money for stock which does not go to the corporation or which is not needed or used to meet the cost of testing the structure, is not a contribution which can be accepted as sufficient in this connection.

In order to make the purchase of stock acceptable as a contribution as applicable in the matter under consideration, the Department must be satisfied that the purchase induced the corporation to begin, or to continue drilling, when in the absence of such purchase it would not have begun, or continued to drill. That does not mean, of course, that the purchase of stock by one permit holder must be sufficient, in and of itself, as an inducement but that several permit holders may join in making contributions by means of purchasing stock.

While no rule can be laid down which will govern every case of this nature, the Department will insist that contributions shall be substantial, taking into consideration the contributing permit holder's area, the amount that has been expended in the test or the estimated cost thereof, and the sources of means therefor."

As heretofore instructed in Circular No. 946, all applications for extension filed in your office, when complete, will be transmitted to this office with your report thereon.

You will give the widest publicity to the above regulations that may be possible without expense to the United States.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Circular No. 1042.

INSTRUCTIONS RELATIVE TO PROCEDURE IN PUBLIC SURVEY OFFICES.

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RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT.
Date NOV 20 1925
Hour

UNITED STATES

DEPARTMENT OF THE INTERIOR

General Land Office

Washington November 13, 1925.

To the Surveying Service
of the General Land Office:

For administrative purposes, each local or branch office under the jurisdiction of the Supervisor of Surveys--former office of the Surveyor General--will be designated "Public Survey Office" at the place in which the office is located.

The returns of all classes of surveys executed by the Surveying Service of the General Land Office will be prepared for the approval and certification of the Supervisor of Surveys at Denver, Colorado. All classes of surveys executed by other agencies, such as mineral surveys, forest homestead entry surveys, and all records prepared from the files of the public survey offices which are not the direct result of field operations but require certification, such as supplemental plats, segregation diagrams of mineral surveys, certified copies of records, etc., will be approved or certified to as the case may be by the Office Cadastral Engineer. This procedure will relieve the Supervisor of Surveys at Denver and the District Cadastral Engineers from attention to matters which are handled by the public survey office from the beginning and to which the Office Cadastral Engineer is competent to certify.

PROCEDURE RELATIVE TO MINERAL SURVEYS.

Application for appointment as U. S. Mineral Surveyor should be addressed to the public survey office in the district for which appointment is desired. Here a thorough examination will be made of the applicant's technical qualifications to fill the position, and if passed in a satisfactory manner, the application will be forwarded to the Division Inspector for report as to the applicant's general reputation and fitness. Upon receipt of favorable report, recommendation for appointment will be made to the Supervisor of Surveys, who will issue the appointment through the public survey office and the applicant will be called upon to file the customary bond. The bond, if executed in proper form, will be forwarded to the Supervisor of Surveys for approval, together with the report of the Division Inspector, and these papers passed on to this office for acceptance of the bond. Notice of acceptance will be mailed to the public survey office, with copy to the Supervisor of Surveys, and the surveyor advised at once by the public survey office. Adverse report, as heretofore, will be sent direct to this office by the Division Inspector, but with notice at the same time to the public survey office.

In the matter of reappointments, notification should be given the surveyor sixty days prior to the expiration of his bond, with request that he signify his intentions regarding its renewal. If answered in the affirmative, the Division Inspector will be called upon for the customary report. Favorable report will be followed by notice to file renewal bond, the approval and acceptance of which will follow the regular procedure for original bonds.

With proper notation retained in each public survey office, the biannual report as to sufficiency of sureties and calls for renewal of expiring bonds can be made by the Office Cadastral Engineer. In case of failure to file renewal bond, resignation, or death, the name of the deputy should be dropped from the list in any district, and this office notified of the action through the office of the Supervisor of Surveys.

Application for the survey of a mining claim, accompanied by the necessary certified copy of location certificate and requisite deposit, should be made to the public survey office for the district in which the claim is located. The Office Cadastral Engineer will receipt for the deposit, issue the order for survey, if appropriate, administer all work in connection therewith, approving plat and field notes of such survey, and otherwise perform the duties prescribed by mining regulations to be performed by the former Surveyor General, including certification as to expenditure made upon the claim.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: November 13, 1925.

E. C. FINNEY,

First Assistant Secretary.

Circular 1044

Amending Cir. 729, of 11/20/1920(47 LD 595) relative to Sec. 24, of the Fed. Wtr. Pwr. Act of June 10, 1920.

December 14, 1925.

Registers,

United States Land Offices.

Sirs:

So much of Cir. 729, of 11/20/20,(47 LD 595) ets. amended as follows:

If the application alleges a valid location made prior to the date of the act and is accompanied by corroborated affidavit attesting the fact, the patent proceedings may be prosecuted to completion. The proof should be considered upon its merits, and, if found regular, final certificate may issue although a protest may have been filed by the Division Inspector; but tge claimant should be advised in such cases that patent will be withheld by the General Land Office pending a report by the Division Inspector upon the bona fides of the claim; also, that when the case is adjudicated in the General Land Office determination will be made whether or not the claim is subject to the privisions of section 24m of the act.

Very respectfully,

WILLIAM SPRY

Commissioner.

Approved: December 14, 1925,

E.C.FINNEY

First Assistant Secretary.

Circular No. 1047.

GENERAL INFORMATION RELATIVE TO SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS.

Obsolete See Circ. 1861

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 9, 1926.

Any officer, soldier, seaman, or marine who served for not less than 90 days in the Army or Navy of the United States during the Civil War, receiving an honorable discharge therefrom, and who, prior to June 22, 1874, the date of the adoption of the Revised Statutes, made a homestead entry for less than 160 acres, may, under section 2306, Revised Statutes, enter an additional quantity of land which added to the previous entry will not aggregate more than 160 acres. This right was extended by section 2307, Revised Statutes, to the widow, if unmarried, otherwise to the minor orphan children.

By the Supreme Court decision of November 16, 1925, in the case of Clarence A. Anderson vs. James W. Clune, No. 331, it was held that the grant vests a property right in the donee, to which must be accorded the quality of inheritability as well as assignability and that such right, if not exercised or transferred by the donee, passes to his estate as other property, subject only to the exercise of the rights given by section 2307, Revised Statutes, to the widow and minor orphan children.

The soldier's additional right may be used (1) by the soldier in his lifetime either directly by entering the land or indirectly, in his lifetime, by conveying his right to entry to an assignee; or (2), similarly, by the widow, while her status as widow of the soldier continues; or (3), similarly, by the minor orphan children, during their minority, acting through their lawful guardian. In case a soldier entitled to the right dies without exercising it, leaving no widow or minor orphan children, the right to entry vests in his personal representative as personal property. If the right passes to the soldier's widow and she remarry or die without exercising it, and there be no minor children of the soldier then surviving, the right vests in the soldier's estate; but if the right passes to the minor children, it becomes absolute in them, in no way conditioned upon an appropriation by the guardian during their minority.

Residence and cultivation are not required in the location of soldiers' additional rights, either by the original beneficiary or by his assignee, no matter whether the original entry was perfected or abandoned. These rights are eagerly sought by scrip dealers, who make inquiries calculated to disclose the existence of such rights, negotiate for the purchase of assignments thereof, and, if pruchase is made, sell the rights so procured to parties desiring to locate them upon vacant public lands.

All persons are cautioned against signing any assignment or affidavit in connection with the sale of these rights unless they are sure as to the truth of the statements contained therein. What these scrip dealers propose to purchase is not the land entered, but the right to make additional entry for the difference between the area of the land entered and 160 acres. Soldiers of the Civil War or their widows or heirs receiving inquiries from scrip dealers must not assume because the scrip dealer has found a record of an entry made by a person with a name merely similar to that of the soldier, or even of the same name, that the entry was in fact made by the soldier and that an additional right exists. Practically all of the letters addressed to such persons by scrip dealers are merely letters of inquiry, and it has been found that such letters of inquiry have been addressed to scores of persons having names similar to those of persons who made entries prior to June 22, 1874. For instance, scrip dealers have written to dozens of persons bearing names such as John Adams, John A. Adams, John B. Adams, John C. Adams, etc., asking whether the soldier addressed, or the husband of the widow addressed, was the same person who made an entry in the name of John Adams. It should be borne in mind that there are many persons having similar names, and that the entry may have been made by a person who was never a soldier.

This office did not maintain a general alphabetical index of the names of entrymen prior to July 1, 1908, therefore, an entry made prior to that date can not be identified on the records from the name of the party. If this circular is sent in reply to an inquiry regarding an entry which has been vaguely described by some scrip dealer it is suggested that the writer of the inquiry request the scrip dealer to give a full description of the entry, by subdivision, section, township, range, and the name of the State in which the land is located, or there should be given the name of the county as well as the name of the State in which the land entered is located. Also the date or approximate date of the entry, showing at least the year in which such entry was made, or the serial number of the entry, the final certificate number, if any, and the name of the district land office, so as to enable this office to identify the entry on the records.

This office does not pass upon the question of whether or not an additional right exists in the absence of an application to locate the alleged right upon a specific tract of land which must be accompanied with a record of the military service, description of the entry made prior to June 22, 1874, competent evidence showing identity of the soldier with the entryman, that no subsequent entry has been made, and that the right has not been previously assigned. If the right is sought to be located by the assignee, appropriate evidence must be submitted showing that he is entitled thereto by assignment.

The owner of a soldiers' additional right who desires to personally exercise the same, must first select a tract of land and then file formal application therefor in the district land office for the district in which the land desired is situated, accompanying the same with the evidence as to existence and ownership of the right as above indicated; or if the land desired be located in Kansas, Michigan, Mississippi or Wisconsin, or other public land State in which there is no district land office, the application and accompanying evidence must be filed in this office.

The required non-mineral and non-occupancy affidavits are embodied in Form 4-008a, prescribed for soldiers' additional applications. For further information and the necessary blank forms for making such applications request should be made of the district land office for the district in which the particular tracts desired are situated, or to this office.

The purchase and sale of these rights is a private transaction in which the Government is not interested until an application is presented for a specific tract of land; therefore this office can furnish no information as to the value of such rights. The purchase price must be fixed by agreement between the parties interested. This office has no blank forms of assignment.

There is no law under which soldiers or their widows or heirs can be given 160 acres or any public land merely by reason of military service. No specific tracts of land were given to soldiers of the Civil War; the bounties given for service in that war were paid in money. The soldier's additional homestead right exists only under the circumstances stated in the first paragraph of this letter. Certain privileges are granted to soldiers, their widows, and minor orphan children in connection with the general homestead laws, but these privileges are not assignable and can only be asserted in connection with an actual entry upon vacant public land upon which they will have to meet certain requirements as to residence, cultivation and improvements. A separate circular, number 302, is issued on this subject.

WILLIAM SPRY,

Commissioner.

Part 284 42 284.53-CFR 43

Still in effect 7-28/50 RB

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT. 4791
Date JAN 23 1926
Hour

Circular No. 1048.

RULES AND REGULATIONS GOVERNING THE FREE USE OF TIMBER UPON OIL AND GAS PROSPECTING PERMITS AND LEASES BY PERMITTEES AND LESSEES.

----- 0 -----

DEPARTMENT OF THE INTERIOR

General Land Office

Washington January 11, 1926.

To Oil and Gas Prospecting Permittees and Lessees and Division Inspectors of the Interior Department:

In accordance with the authority conferred upon the Secretary of the Interior by Sec. 32 of the act of February 25, 1920 (41 Stat., 437), the following rules and regulations shall govern the free use of timber for fuel in drilling operations by oil and gas permittees and lessees:

1. Any oil and gas prospecting permittee, lessee, or their assignees, desiring timber to be used for fuel in drilling operations on a prospecting permit or lease not within a national forest, shall file application therefor, with the Division Inspector for the division within which the permit or lease is situated, upon a form furnished by him on request.

2. Upon the filing of an application required by the preceding paragraph the Division Inspector will cause investigation to be made, and permission to cut the timber applied for may be granted by him, Provided the timber is not taken from lands occupied by a settler or embraced in an unperfected homestead entry.

3. The applicant shall be notified by registered mail of the decision by the Division Inspector, in all cases where the permit applied for is not granted and he shall be allowed 30 days from service of notice within which to appeal from such decision to the Commissioner of the General Land Office.

4. Where the land involved in the oil and gas prospecting permit or lease is occupied by a settler or is embraced in an unperfected homestead entry, the applicant must serve notice by registered mail, on the settler, or entryman, showing the amount and kind of timber he has applied for.

(a) Evidence of service of such notice must be furnished the Division Inspector.

(b) The settler or entryman shall be allowed 30 days from service of notice within which to show cause why the permit should not be granted.

(over)

(c) The Division Inspector will transmit the application to the Commissioner of the General Land Office, together with any protests against the issuance of the permit that may be filed by the settler or entryman, and his report and recommendation as to the issuance of said permit.

(d) Permits in such cases will be issued only where there is an abundance of timber on the land, and the removal thereof, will not materially affect the use of the land by the agricultural claimant.

5. The applicant shall be notified by registered mail of the decision of the Commissioner of the General Land Office, in all cases where the permit applied for is not granted and the settler or homestead entryman shall be notified in a like manner before the issuance of the permit in all cases where protests are filed against the issuance of such permit. An appeal to the Secretary of the Interior from the Commissioner's decision may be filed within 30 days from service of notice.

6. No permit will be issued where title to the surface has passed from the United States.

7. A permit granted under these regulations, shall embrace no land not included in the oil and gas prospecting permit or lease, issued or assigned to the applicant.

8. All rights and privileges under a permit issued under these instructions, shall terminate upon the expiration or cancellation of the oil and gas prospecting permit or lease, or upon the discovery of oil in sufficient quantity for use as fuel in drilling operations.

9. Timber cut under a permit issued under these instructions may be used for fuel in drilling operations conducted on the land embraced in the oil and gas prospecting permit or lease, used as a basis for such permit only, and all brush, tops, lops, and other débris made in felling and removing the timber shall be disposed of as best adapted to the protection of the remaining growth, and in such manner as shall be prescribed by the Division Inspector and failure on the part of the permittee to comply with this requirement will render him liable for all expenses incurred by the Division Inspector in putting this regulation into effect.

10. Where permits are secured by fraud or timber is not used in accordance with these rules and regulations, the Government will enforce the same civil and criminal liabilities as in other cases of timber trespass upon public lands.

11. The cutting of timber for sale and speculation, or for use by others than the permittee, is strictly prohibited by these rules and regulations.

WILLIAM SPRY,
Commissioner.

Approved: January 11, 1926,

E. C. FINNEY,
First Assistant Secretary.

CIRCULAR No. 1054

EGULATIONS FOR THE SALE OF LOTS IN THE TOWN SITE OF SANISH IN THE FORMER FORT BERTHOLD INDIAN RESERVATION, N. DAK.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, March 16, 1926.

he SECRETARY OF THE INTERIOR.

SIR: Requests have been made for the public sale of the forfeited,
nreserved, and unsold lots in the town site of Sanish, in the former
ort Berthold Indian Reservation, N. Dak., and it appears that
le should be held.

It is therefore recommended that the forfeited, unreserved,
unsold lots in said town site be offered for sale at public outc
not less than their appraised value at the time and place, in
manner, and under the terms hereinafter prescribed, as provided
section 6 of the act of June 1, 1910 (36 Stat. 455), which
requires 20 per cent of the net proceeds of the sale to be set
and expended under the direction of the Secretary of the In
in the construction of school houses or other public buildings
provements in the town site.

Time and place of sale.—Beginning on May 5, 1926, and conti
ing thereafter from day to day, Sundays and holidays except
long as may be necessary, at Sanish, N. Dak.

Manner.—Bids may be made either in person or by agent, but
by mail or at any time or place other than the time and place
the lots are offered for sale hereunder, and any person may purch
any number of lots for which he is the highest bidder. Bidders
not be required to show qualifiations as to age, citizenship, or ot
wise. If any successful bidder fails to make the payment requi
on the date of the sale, the lot awarded to him shall be reoffered
sale on the following day.

Terms.—Payments will be required as follows: No lot will be
posed of for less than $10, and any lot sold for $10 must be paid
on the day it is sold; the minimum of $10 and at least 25 per
the bid price of each lot sold for more than $10 must be paid
date of the sale, and the remainder, if the price bid is $50
within one year from the date of the sale; if the price bid
$50 and less than $100, 75 per cent of the cost may be divided
equal payments due, respectively, one and two years from
of the sale; if the price bid be $100 or more, the 75 per cent
ing unpaid may be divided into three equal payments, due,
tively, one, two and three years from the date of sale. No entry
be allowed until payment has been made in full for the lot
case of partial payment the register will issue a nontrans
memorandum duplicate certificate showing the amount of
and the terms of the sale, and reciting the right of the purch
make entry upon completing the payments; and will issue a
randum receipt for the money paid. Nothing herein will
the transfer of the interests secured by the purchase and the
payment of the lot by deed, but the assignee will acquire no
right than that of the original purchaser, and the final ent
patent will issue to the original purchaser when all paym
made.

Forfeiture.—If any person who has made partial paym
lot purchased by him fails to make any succeeding payment
under these regulations at the date such payment becomes
money deposited by such person for such lot will be forf
the lot, after forfeiture is declared, will be subject to dispo

All persons are warned against forming any combination
ment which will prevent any lot from selling advanta
which will in any way hinder or embarass the sale, and
so offending will be prosecuted under section 59 of the Crim
of the United States, which reads as follows:

> Whoever, before or at the time of the public sale of any of the lands
> United States, shall bargain, contract, or agree, or attempt to bargain, contr

or agree with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof; or whoever by intimidation, combination, or unfair management shall hinder or prevent, or attempt to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

The officer who conducts the sale will be, and he is hereby, authorized to appraise any unappraised lot, or to cause any lot to be reappraised which in his judgment is not appraised at the proper amount, and he may reject any and all bids for any lot and at any time suspend, adjourn, or postpone the sale of any lot or lots, to such time and place as he may deem proper.

If some but not all of the lots are sold and if the sale is suspended, the unsold lots, and lots subsequently forfeited, will not become subject to private entry but will be held for further offering at public sale. If, however, the sale is closed, the lots remaining unsold or thereafter declared forfeited will become subject to private entry for cash at their appraised value.

Very respectfully,

William Spry, *Commissioner.*

Approved March 18, 1926.

E. C. Finney,
First Assistant Secretary.

(List of appraisements omitted.)

6607

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT.
Date APR 23 1926
Hour

Circular No. 1060.

INSTRUCTIONS RELATIVE TO NUMBERING CONTRACTS.

--- 0 ---

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 10, 1926.

A uniform system of numbering contracts throughout the Government service has been adopted by the General Accounting Office, commencing with the making of contracts for the fiscal year 1927. The system provides for the use of symbols to represent each department, its bureaus and separate administrative subdivisions. In accordance with this plan the General Land Office service has been divided into four groups to which symbols have been assigned as follows:

Washington, D. C.	I1g-
Cadastral Engineering Service	I2g-
Inspection Service	I3g-
District Land Office Service	I4g-

Each group will number its own contracts. In order to avoid duplication of numbers a central numbering agency is hereby established for each group as follows:

Washington, D. C. -- Chief Clerk's Office.
Cadastral Engineering Service -- Office of Supervisor of Surveys, Denver, Colorado.
Inspection Service -- Disbursing Officer, Inspection Service, Salt Lake City, Utah.
District Land Office Service -- General Land Office, Washington, D. C.

Commencing with the fiscal year 1927 all formal contracts originating in each group will be forwarded to its respective central numbering agency so that they may be properly numbered before being transmitted to this office for approval.

Contracts will be numbered consecutively in the upper right-hand corner, in the order received in the central numbering office. The symbol will be placed first and the contract number after the symbol, separated therefrom by a hyphen, commencing with number one and continuing in succession indefinitely without reference to fiscal years, the combination of symbol and contract number forming a complete symbol number for each contract by which its origin may be readily identified.

Examples:

I2g-1.	First contract from Cadastral Engineering Service.
I3g-1.	First contract from Inspection Service.
I2g-2.	Second contract from Cadastral Engineering Service.
I3g-15.	Fifteenth contract from Inspection Service.

(over)

Under existing regulations a formal contract must be made for all transactions involving an expenditure of over $100. Commencing with the making of contracts for the fiscal year 1927, a formal contract will be made for all transactions involving a series of payments over a period of time, such as telephone service, garage rent, etc., notwithstanding the fact that the aggregate expenditures thereunder will amount to less than $100.

All formal contracts must be numbered in the manner above outlined and forwarded to this office separate from the vouchers, but less formal agreements, such as proposal and acceptance, involving an expenditure less than $100, where payment in full is made on a single voucher, will not be numbered. All papers in connection with such latter agreements will be forwarded to this office attached to the vouchers to which they pertain.

Appropriate records will be set up and maintained in each central numbering office to put the new system of numbering contracts into effect and avoid duplication of numbers.

WILLIAM SPRY,

Commissioner.

Circular No. 1063

Supplemental to Circulars No. 946 and 1041.

OIL AND GAS EXTENSIONS OF TIME. INSTRUCTIONS UNDER THE ACT OF APRIL 5, 1926 (Public No. 93).

UNITED STATES

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

April 27, 1926.

Registers,

United States Land Offices.

Gentlemen:

By act of Congress approved April 5, 1926 (Public No. 93), the Secretary of the Interior was authorized to grant extensions of time for an additional period of two years on oil and gas prospecting permits issued under the act of February 25, 1920 (41 Stat., 437). This act applies also to the Territory of Alaska, and the act reads as follows:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any oil or gas prospecting permit issued under the act entitled 'An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain,' approved February 25, 1920, or extended under the act entitled 'An act to authorize the Secretary of the Interior to grant extensions of time under oil and gas permits, and for other purposes,' approved January 11, 1922, may be extended by the Secretary of the Interior for an additional period of two years, if he shall find that the permittee has been unable, with the exercise of reasonable diligence, to begin drilling operations or to drill wells of the depth and within the time required by existing law, or has drilled wells of the depth and within the time required by existing law, and has failed to discover oil or gas, and desires to prosecute further exploration.
>
> Sec. 2. Upon application to the Secretary of the Interior, and subject to valid intervening rights and to the provisions of section 1 of this act, any permit which has already expired because of lack of authority under existing law to make further extensions, may be extended for a period of two years from the date of the passage of this act."

(over)

Under this act extensions of time may be granted for a period of not exceeding two years in addition to the time heretofore authorized except those cases falling specifically within section 2 of this act which are limited to extensions of two years from the date of the act.

Applications for extensions hereunder should follow in form and substance the applicable provisions of Circulars 946 (50 L. D., 567) and 1041 (51 L. D., 278).

You will give the widest publicity to the above regulations that may be possible without expense to the United States.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: April 27, 1926.

E. C. FINNEY,

First Assistant Secretary.

CIRCULAR No. 1064

URTHER SALE OF LOTS AT CHESTERFIELD, IDAHO, AUTHORIZED—FORMER SALES AT CHESTERFIELD AND MINIDOKA, IDAHO, CLOSED

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 15, 1926.

GISTER, *Blackfoot, Idaho.*

SIR: Sales of lots in the town sites of Chesterfield and Minidoka, aho, were conducted under your supervision in accordance with gulations contained in Circulars Nos. 1019[*] and 1020, and by letters ted September 21 and October 26, 1925, you reported as to the lots ld. These reports do not state whether the sales were closed or journed. No reason appears, however, why the sales should not closed, and they are hereby declared to be closed. Under the regulations such lots as were offered at public sale and not sold be sold at private sale, at the appraised values.

here are a few lots in the town site of Chesterfield, Idaho, now disposed of, which were not included in the former offering, for reason that at the time of such offering they were covered by emption applications. The lots have since become subject to position, by reason of the relinquishment of the preemption ms. There are no such lots in the town site of Minidoka.

The following is a list of such lots in the town site of Chesterfield, as shown by the records of this office:

Lot No.	Block No.	Area	Valuation
		Acres	
1	11	2.50	$37.50
2	11	2.50	37.50
2	15	2.77	41.55
3	15	2.77	41.55
1	28	2.50	37.50
4	28	2.50	37.50
1	29	2.50	50.00
4	29	2.50	50.00

Before any lot of the class indicated may be disposed of at private sale, it must be offered at public sale.

You will cause all lots in the town site of Chesterfield, of the class indicated, to be offered at public sale, for cash, at your office at not less than the appraised values on Thursday, July 8, 1926, the sale otherwise to be in accordance with the regulations contained in Circular No. 1019. You will report promptly at the close of the sale whether or not the lots are sold and whether or not the sale has been closed. At the close of the sale the lots, if unsold, will become subject to private entry for cash at the appraised values.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

Approved May 15, 1926.

E. C. FINNEY,
First Assistant Secretary.

CIRCULAR No. 1086

REGULATIONS FOR THE SALE OF TOWN LOTS IN THE FIRS ADDITION TO THE TOWN SITE OF FORD, CALIF.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 26, 19

REGISTER, *Visalia, Calif.*

SIR: By Executive order No. 4225 of May 16, 1925, the S NW. ¼ and S. ½ NW. ¼ NW. ¼, sec. 12, T. 32 S., R. 23 E., M. M., were eliminated from Naval Petroleum Reserve No. 2 and served for town-site purposes under section 2380, United S Revised Statutes. By the terms of the order all oil and gas dep therein are retained in said reserve for the use and benefit o Navy.

The subdivisional survey thereof was made under section Revised Statutes, and accepted May 15, 1926. The unreserved in said town site will be disposed of under the provisions of 2381, Revised statutes, in accordance with regulations herein scribed and subject to the conditions and limitations of the ac July 17, 1914 (38 Stat. 509).

Four drilling sites of approximately 2 acres each on each 40-acre ract within the town site have been reserved from disposition under the town-site laws for the future development of the oil and gas deposits. Such sites have been marked upon the approved plat and will be reserved from the sale.

Date of sale.—On Monday, November 8, 1926, beginning at 10 o'clock a. m., a sale at public auction to the highest bidder will be held at the town site, of all unreserved lots, the sale to be conducted from day to day until all such lots shall be offered under the supervision of the Commissioner of the General Land Office or his representative. No lots will be sold for less than the appraised price and on the terms herein stated. After all unreserved lots have been offered, the sale will not be closed, but it will be indefinitely postponed, pending a reappraisement of the remaining lots before being made subject to private sale.

Manner.—Bids may be made either in person or by agent, but not by mail nor at any time or place other than the time and place when and where the lots are offered for sale hereunder, and any person may purchase any number of lots for which he is the highest bidder. Bidders will not be required to show any qualifications as to age, citizenship, or otherwise. If any successful bidder fails to make the payment required on the date of sale, the lot awarded to him shall be reoffered for sale on the following day.

Terms.—No lot will be disposed of for less than its appraised alue; one-fourth of the bid price shall be paid on the day the bid is accepted and the balance of the purchase price may be paid in hree equal installments in one, two, and three years after the date of sale, without interest. No entry will be allowed until payment has been made in full for the lot, but in case of partial payment there will be issued to the purchaser a nontransferable memorandum duplicate certificate as per Form 4–014; the register in such case will issue an official receipt (Form 4–131) for the money paid. Nothing herein will prevent the transfer of interest secured by the purchase and the partial payment of the lot, by deed, but the assignee will acquire no greater right than that of the original purchaser and the final entry and patent will issue to the original purchaser when all payments are made.

Forfeiture.—If any person who has made partial payment on the ot purchased fails to make any succeeding payment, required under hese regulations, at the date such payment becomes due, the money posited by such person for such lot will be forfeited and the lot ter forfeiture is declared will be subject to disposition. Lots re- aining unsold at the close of the sale, or thereafter declared for- ited for nonpayment of any sum of the purchase price, under the rms of the sale, will not be subject to private entry for cash until ey are reappraised.

All persons are warned against forming any combination or agree- nt which will prevent any lot from selling advantageously, or ich will in any way hinder or embarrass the sale, and all persons offending will be prosecuted under section 59 of the Criminal de of the United States.

Owners of buildings who do not purchase the lots on which said ildings are located will be allowed 60 days from the date of sale

The newspapers in the vicinity should be given copies of a no of the sale as an item of news and such other publicity should given it as can be done without expense.

The commissioner, or his representative conducting the sale, authorized to reject any and all bids for any lot, and at any ti suspend, adjourn, or postpone the sale of any lot or lots to s time and place, as he may deem proper and to reappraise any or lots.

Very respectfully,

WILLIAM SPRY, *Commissioner,*

Approved July 26, 1926.

E. C. FINNEY,
First Assistant Secretary

(List of appraisements omitted.)

See
Part 292
CFR 43

Circular No. 1066.

AMENDING ALL CIRCULARS AND REGULATIONS PERTAINING TO SELECTIONS, FILINGS, OR ENTRIES OF LANDS CONTAINING SPRINGS OR WATER HOLES.

Amended by Circ. 1095, 1231, 1518, 1661

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Registers,

United States Land Offices.

Sirs:

By Executive order of April 17, 1926, the following order of withdrawal was issued:

> Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat., 847), entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," as amended by act of Congress approved August 24, 1912 (37 Stat., 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of section 10 of the act of December 29, 1916 (39 Stat., 862), and in aid of pending legislation.

The above order was designed to preserve for general public use and benefit unreserved public lands containing water holes or other bodies of water needed or used by the public for watering purposes. It is not therefore to be construed as applying to or reserving from homestead or other entry lands having small springs or water holes affording only enough water for the use of one family and its domestic animals. It withdraws those springs and water holes capable of providing enough water for general use for watering purposes.

In furtherance of said order, all General Land Office circulars and regulations pertaining to the selection, filing, or entry of public lands under any of the public land laws of the United States, are hereby amended so that in every instance it must be shown by a duly corroborated affidavit in connection with every selection, filing, or entry made upon or subsequent to the date of said Executive order, or theretofore filed but not allowed, that no spring or water hole exists, if it be a fact, upon any legal subdivision of the land sought to be appropriated, if surveyed, and if unsurveyed, within one quarter

(over)

of a mile from the exterior boundaries of said land. If there be any spring or water hole the affidavit should state the exact location and size thereof; together with an estimate of the quantity of water in gallons, which it is capable of producing daily, and any other information necessary to determine whether or not it is valuable or necessary as a public water reserve.

In case the attempted appropriation of the land is one the allowance of which is within the discretion of the Secretary of the Interior or the Commissioner of the General Land Office, the showing hereinbefore referred to must be furnished, irrespective of the date of filing of the application, entry, or selection, before favorable action is taken thereon.

This circular shall not apply, however, to selections or filings made in pursuance of grants which have been determined to be "Grants in praesenti," and to have attached and become effective prior to April 17, 1926, or to valid settlement claims initiated prior to said date and thereafter maintained in accordance with the law applicable thereto.

You will make proper notations on your records of this withdrawal in order that it may be considered in connection with any applications filed.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: May 25, 1926.

E. C. FINNEY,

First Assistant Secretary.

AFFIDAVIT UNDER CIRCULAR 1066-1231

Serial No.________

I, ________________________ of ____________________________ do solemnly swear that there are no springs or water holes, or hot springs the waters of which possess curative properties, upon any legal subdivision of the lands covered by my homestead application, Serial No. _________ for _______________

____

____ except*

____
Applicant

Witness______________________

Witness______________________

Subscribed and sworn to before me this_____day of______193___

____
Officer

---

*If there be any spring or water-hole, the exact location and size thereof should be given, together with an estimate of the quantity of water in gallons which it is capable of producing daily, and any other information necessary to determine whether or not it is valuable or necessary as a public water reserve.

Circular No. 1066.

AMENDING ALL CIRCULARS AND REGULATIONS PERTAINING TO SELECTIONS, FILINGS, OR ENTRIES OF LANDS CONTAINING SPRINGS OR WATER HOLES.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Registers,

United States Land Offices.

Sirs:

By Executive order of April 17, 1926, the following order of withdrawal was issued:

> Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat., 847), entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," as amended by act of Congress approved August 24, 1912 (37 Stat., 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of section 10 of the act of December 29, 1916 (39 Stat., 862), and in aid of pending legislation.

The above order was designed to preserve for general public use and benefit unreserved public lands containing water holes or other bodies of water needed or used by the public for watering purposes. It is not therefore to be construed as applying to or reserving from homestead or other entry lands having small springs or water holes affording only enough water for the use of one family and its domestic animals. It withdraws those springs and water holes capable of providing enough water for general use for watering purposes.

In furtherance of said order, all General Land Office circulars and regulations pertaining to the selection, filing, or entry of public lands under any of the public land laws of the United States, are hereby amended so that in every instance it must be shown by a duly corroborated affidavit in connection with every selection, filing, or entry made upon or subsequent to the date of said Executive order, or theretofore filed but not allowed, that no spring or water hole exists, if it be a fact, upon any legal subdivision of the land sought to be appropriated, if surveyed, and if unsurveyed, within one quarter of a mile from the exterior boundaries of said land. If there be any spring or water hole the affidavit should state the exact location and size thereof; together with an estimate of the quantity of water in gallons, which it is capable of producing daily, and any other information necessary to determine whether or not it is valuable or necessary as a public water reserve.

In case the attempted appropriation of the land is one the allowance of which is within the discretion of the Secretary of the Interior or the Commissioner of the General Land Office, the showing hereinbefore referred to must be furnished, irrespective of the date of filing of the application, entry, or selection, before favorable action is taken thereon.

This circular shall not apply, however, to selections or filings made in pursuance of grants which have been determined to be "Grants in praesenti," and to have attached and become effective prior to April 17, 1926, or to valid settlement claims initiated prior to said date and thereafter maintained in accordance with the law applicable thereto.

You will make proper notations on your records of this withdrawal in order that it may be considered in connection with any applications filed.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: May 25, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1067

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 26, 1926.

School section land.
Administrative Order.

Registers, United States Land Offices, and

Division Inspectors.

Sirs:

All hearings and other proceedings initiated by or for the United States, not specifically directed or authorized by Congress, involving the mineral or nonmineral character of school section lands in place, are hereby suspended pending examination in this office and until further orders. If dates have been set for hearings in any such cases, Registers will indefinitely postpone same and notify all parties in interest. If a hearing is in progress when this order is received, the Register will proceed therewith only in case the representative of the State, or its transferee, makes formal request in writing (to be made a part of the record) that such action be taken. Where hearings have been had and no decision rendered, the cases will be forwarded forthwith to this office for further action. Please give this your immediate attention. This order is not designed to interfere with private contests involving school sections, and same may proceed in regular order.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: May 26, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1070.

REPEAL OF THE ACT OF JANUARY 27, 1922, ALLOWING CHANGES OF ENTRY.

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DEPARTMENT OF THE INTERIOR
General Land Office
Washington

In reply please refer
to "K" WOH.

June 8, 1926.

Registers,
United States Land Offices.

Sirs:

The act of May 21, 1926 (Public No. 262, 69th Congress), entitled "An act to repeal the act approved January 27, 1922, providing for change of entry, and for other purposes," reads as follows:

> That the act of Congress approved January 27, 1922, entitled "An act to amend section 2372 of the Revised Statutes," be and the same is hereby repealed: Providing, That any applications heretofore filed under the provisions of this act, or any claim of which notice is filed within sixty days from the approval of this act, upon which applications are presented within one year from the date of approval of this act, may be perfected and patents issued therefor the same as if this act had not been passed: Provided further, That when the selection in exchange fails for no fault on the part of the selector another selection in exchange may be made if filed within one year from notice to the selector of the rejection of the selection.

The present law repeals the act of January 27, 1922 (42 Stat., 359), authorizing changes of entry, except as to pending applications, and claims in which notice is filed within 60 days from the approval of the act, followed by selection within one year from the date of approval of the act, and claims where the selection fails for no fualt of the selector, in which case a new selection may be made if the same is filed within one year from notice to the selector of the rejection of his selection.

The regulations governing applications under said act of January 27, 1922, are those of March 22, 1922 (48 L. D., 595 - Circular No. 817), and your particular attention is called to paragraph 5 thereof which reads as follows:

(over)

Applications should be suspended and transmitted to the General Land Office with the current monthly returns, and the applicants should be notified of such suspension. After consideration of the application, it will be submitted to the Secretary of the Interior with appropriate recommendations.

Said regulations have been added to by the administrative ruling of the Secretary of the Interior on December 2, 1924 (50 L. D., 684 - Circular No. 967 of December 3, 1924).

All notices under the act of May 21, 1926, must identify the lands covered by the base entries from which changes of entries are contemplated by describing the lands by subdivision, section, township, and range or by giving the number, date, and kind of entry and the land office where each entry was made. They may be filed direct in the General Land Office. Unless accompanied by applications for changes of entry to particular tracts of land, you should not assign serial numbers to the notices, but should stamp the date received thereon and promptly forward them to this office.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: June 8, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1073

INSTRUCTIONS UNDER THE ACT APPROVED APRIL 30, 1926 (PUBLIC, NO. 157), AMENDING SEC. 27 OF THE LEASING ACT OF FEBRUARY 25, 1920 (41 STAT. 437)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 18, 1926.

REGISTERS, UNITED STATES LAND OFFICES.

GENTLEMEN: By the act of April 30, 1926 (Public, No. 157), section 27 of the leasing act of February 25, 1920 (41 Stat. 437), was amended so as to read as follows:

> That no person, association, or corporation, except as herein provided, shall take or hold coal, phosphate, or sodium leases or permits during the life of such leases or permits in any one State exceeding in aggregate acreage 2,560 acres for each of said minerals; no person, association, or corporation shall take or hold at one time oil or gas leases or permits exceeding in the aggregate 7,680 acres granted hereunder in any one State, and not more than 2,560 acres within the geologic structure of the same producing oil or gas field; and no person, association, or corporation shall take or hold at one time any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof, which, together with the area embraced in any direct holding of a lease or leases, permit or permits, under this act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof for any kind of mineral leases hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee or permittee under this act. Any interests held in violation of this act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition: *Provided*, That nothing herein contained shall be construed to limit Sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this act, or the transportation of coal or to increase the acreage which may be acquired or held under Section 17 of this act: *Provided further*, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same: *And provided further*, That if any of the lands or deposits leased under the provisions of this act shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they

form a part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individuals, partnership, association, corporation, or control, in excess of the amounts of lands provided in this act, the lease thereof shall be forfeited by appropriate court proceedings.

In accordance with the provisions of said act, every applicant for coal or sodium permit, or coal, phosphate, or sodium lease must show that, with the area applied for, his or its interest or interests in such permits, leases and other applications therefor, directly and indirectly, will not exceed in the aggregate 2,560 acres for each of said minerals in any one State.

Every applicant for oil or gas permit, lease or for approval of assignment of any interest in such permit or lease must show that, with the area applied for, his or its interest or interests in such permits, leases and other applications therefor, directly and indirectly, will not exceed in the aggregate 7,680 acres in any one State and not more than 2,560 acres within the geologic structure of the same producing oil or gas field, together with a full disclosure, nature and extent of his or its other holdings with identification of the records where such interests may be found.

The act of April 30, 1926, applies to the Territory of Alaska in so far as it allows an applicant to hold direct and indirect interests not exceeding in the aggregate 2,560 acres on the same geologic structure, but such applicant may not take or hold more than five permits and leases within the geologic structure of the same producing oil or gas field, nor more than five in said Territory.

Within the limitations herein stated, assignments of any interest in permits or leases should be submitted for approval, accompanied by the necessary papers and showing of the qualifications of the assignee.

Drilling contracts and operating agreements entered into by holders of prospecting permits should not be submitted for approval unless and until discovery is made and application for lease filed, at which time all such contracts must be disclosed. If the contract carries with it a right or interest in the proceeds or in the permit or lease to be issued thereunder, the contractor must then show his qualifications to take the interest so acquired.

Prior to discovery on oil and gas permits, drilling contracts and operating agreements or copies thereof filed in connection with applications for extensions of time, will usually be considered only for the purpose of determining whether the permittees have exercised diligence and are entitled to the extensions of time applied for.

In computing the area held by any person, association, or corporation, only those interests which are represented in applications for permits, for leases, and for approval of assignments of any interest in permits or leases, and those interests held or recognized in permits or leases granted or assignments approved, will be considered.

All instructions and regulations in conflict herewith are hereby modified so as to conform hereto.

You will give the widest publicity to the above regulations that may be possible without expense to the United States.

Very respectfully,

(Signed) William Spry,
Commissioner.

Approved June 18, 1926.

(Signed) E. C. Finney,
First Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1926

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT
Date JUL 1 1926
Hour

Circular No. 1074.

ACTING REGISTERS AUTHORIZED TO ADMINISTER OATHS AT ANY TIME IN PUBLIC LAND MATTERS.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 24, 1926.

To Registers and Acting Registers,

United States Land Offices.

Sirs:

By act of May 17, 1926 (Public No. 231), provision has been made for acting registers of district land offices to administer oaths at any time in public land matters. The act reads as follows:

> "That a qualified employee of the Department of the Interior who has been designated to act as register of any United States land office pursuant to the provisions of the act of October 28, 1921, 'An Act for the consolidation of the offices of register and receiver in certain cases and for other purposes' (Forty-second Statutes at Large, page 208), may at all times administer any oath required by law or the instructions of the General Land Office in connection with the entry or purchase of any tract of public land, but he shall not charge or receive, directly or indirectly, any compensation for administering such oath."

The intent and purpose of the act is to avoid delay and inconvenience to public land claimants by having some one in the land office at all times who is authorized to administer oaths in public land cases. Under the provisions of the act the acting register may administer oaths at any time, whether the register is present or absent, and no report is required to be made to this office when he performs such service, but nothing contained therein shall be construed to permit the acting register to perform any other duties required to be performed solely by the register when the latter official is on duty, nor to relieve the acting register from the duty of reporting to this office the same as heretofore the exact date and hour of the beginning and termination of his service as acting register at such times as the register may be absent from the office for a day or longer.

The act does not in any way relieve the register of his responsibility for the proper performance of the duties imposed upon him by law, and it is not expected that he will permit private interests to interfere with his active attention to official business, and he is expected to remain on duty at all times except when absent on leave previously granted by this office.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Circular No. 1076.

AMENDING CIRCULAR OF JUNE 6, 1908 (36 L. D., 567), CONCERNING RIGHTS OF WAY OVER PUBLIC LANDS AND RESERVATIONS, FOR CANALS, DITCHES, AND RESERVOIRS.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 8, 1926.

Registers,

United States Land Offices.

Sirs:

Your attention is called to an act of Congress which reads as follows:

(Public No. 302 - 69th Congress.)

(H. R. 6729.)

An Act To amend section 18 of the Irrigation Act of March 3, 1891, as amended by the act of March 4, 1917.

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18 of what is generally known as the Irrigation Act of March 3, 1891, as amended by act of March 4, 1917, be, and is hereby, amended so as to read as follows:
>
> "Sec. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal ditch company, irrigation or drainage district formed for the purposes of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the applicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the

construction of such canal or ditch: Provided, That no such right of way shall be so located as to interfere with the proper occupation of the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories."

Approved: May 28, 1926.

Apart and aside from extending the scope of the granting act so to include irrigation and drainage districts as beneficiaries, it will be noted that this act authorizes right of way, if needs be, additional to the 50 feet granted by the act of March 3, 1891 (26 Stat., 1095). To obtain such additional right of way, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right of way required and the necessity therefor. The additional right of way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right of way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

This circular should be assembled on page 2 of the circular of June 6, 1908 (36 L. D., 567), as an addendum to paragraph 2 of said circular.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: July 8, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1080.

INSTRUCTIONS UNDER PROCLAMATION EXTENDING TIME FOR PAYMENT ON CROW INDIAN LANDS.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 14, 1926.

Register,
Billings, Montana.

Sir:

The President's proclamation issued June 5, 1926, providing for a further extension of time for payment by purchasers and entrymen under the President's proclamations of September 28, 1914 (38 Stat., 2029) and April 6, 1917 (49 Stat., 1653), of lands in the ceded portion of the Crow Indian Reservation, Montana, directs:

> "That any purchaser or entryman of lands within said former reservation who is unable to pay the purchase money due under his purchase or entry made under the said proclamation of September 28, 1914, or the said proclamation of April 6, 1917, and who has complied with the provisions of the proclamation of June 9, 1924, upon filing in the local land office an affidavit corroborated by two persons setting out his inability to make the required payment of principal and satisfactory reasons therefor shall be granted an extension of time until the 1927 anniversary of the date of his entry or purchase, upon the payment to the Register of the district land office of interest at the rate of five per cent per annum on the amounts extended from the maturities thereof to the expiration of the period of extension. The district land office will promptly notify all purchasers and entrymen entitled to the extension of the manner in which it may be obtained. If the affidavit is not filed and the interest paid within 30 days from receipt of notice, or if, within such time, the amounts in arrears are not paid in full, the purchases or entries for which the amounts are due will be reported by the district land office to the General Land Office for cancellation."

Pursuant to said proclamation the following regulations are prescribed:

1. The said proclamation of September 28, 1914, provided that one-third of the price of the land must be paid when the entry or purchase is made. In case of a purchase, the balance of the price must be paid in two equal payments, one year and two years thereafter and in case of an entry in two equal payments, three years and four years thereafter, unless paid sooner. The said proclamation of April 6, 1917, provided that one-fifth of the purchase price must be paid on the day following the sale and that the balance must be paid in four equal annual instalments in one, two, three, and four years after the date of sale unless paid sooner. By President's proclamation of May 5, 1920 (41 Stat., 1793), August 11, 1921 (42 Stat., 2246), July 10, 1922 (42 Stat., 2281), December 18, 1923 (43 Stat., 1931), and June 9, 1924 (43 Stat., 1955), extensions of time were allowed until the 1925 anniversaries of the dates of the purchases and entries made under the said proclamations of September 28, 1914 and April 6, 1917. Under the present proclamation, an extension of time to the 1927 anniversaries of said purchases and entries may be secured under the conditions specified therein only by those purchasers and entrymen who have complied with the provisions of the proclamation of June 9, 1924.

2. Within 30 days from receipt of notice to be given by you immediately, any purchaser or entryman whose payments both of principal and interest are in default at the time of such receipt must pay in full the amounts due; any purchaser or entryman whose payments of principal only are in default at the time of such receipt either must pay in full the amounts due or he may file in your office a corroborated affidavit setting out his inability to do so, and the reasons therefor, accompanied by interest at the rate of 5 per cent per annum on the amounts for which an extension is sought.

3. The time for any payment can not be extended to a date beyond the 1927 anniversary.

4. Proof may be submitted at any time before such anniversary provided the requirements of the law as to payments are complied with.

5. No extension will be allowed unless the affidavit and interest as herein required are transmitted to your office within the time allowed.

You will forward a copy of these instructions to each purchaser or entryman who is affected thereby advising him that in order to secure the benefits of said proclamation he must comply with its requirements as herein explained, and that in the event of his failure to take such action within the time allowed, the purchase or entry will be reported for cancellation and forfeiture of payments without further notice to him.

In those cases where an extension of time may be obtained, should a satisfactory affidavit be filed and the required interest paid, you will stamp the affidavit "Allowed" and transmit with your regular returns. You will in due time report the cases in which no action has been taken, transmitting evidence of service of notice.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Approved: July 14, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1084.

AMENDMENT OF CIRCULAR NO. 929--RELATING TO DRAWINGS UPON CANCELLATION OF OIL AND GAS PERMITS.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 23, 1926.

Registers,

United States Land Offices.

Gentlemen:

On June 3, 1926, in considering a protest filed as the result of a drawing held in accordance with Circular No. 929 (50 L. D., 387), upon the cancellation of an oil and gas prospecting permit the Department directed that:

> "Hereafter parties desiring to file applications for participation in drawings of this kind be required to allege that they are filing in their own interest and not in the interest of any other person or persons, association, or corporation; or to show clearly in whose interest if not in their own exclusive interest."

It must be stated in each application that the applicant files the same in good faith for his or its own benefit, and not directly or indirectly in whole or in part in behalf of any other person or persons, association, or corporation, or if made in the interest of any other person or persons, association, or corporation, a full disclosure thereof must be made, accompanied by a showing of the qualifications of all the interested parties. Any such application filed that does not meet the above requirements will not be allowed to participate in the drawings when held.

Any applicant who fails to disclose any and all interests other than his own which shall tend to give an advantage in the drawing, will forfeit any claim to a return or repayment of moneys tendered with his application and subject the permit, in the event that one is awarded to him, to cancellation for fraud.

Circular No. 929 is hereby amended so as to conform hereto.

You will give the widest publicity to the above regulations that may be possible without expense to the United States.

Approved: July 23, 1926.

E. C. FINNEY,
First Assistant Secretary.

Very respectfully,

WILLIAM SPRY,
Commissioner.

new Regulations
Timber Cutting, Sales, etc 19909

RECEIVED
DISTRICT LAND OFFICE
BILLINGS, MONTANA
JUN 14 1943
HOUR

still in effect 5/28/54

Circular No. 1085a

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

CODE OF FEDERAL REGULATIONS
TITLE 43 - PUBLIC LANDS: INTERIOR

See Circ 1801, ...

PART 254 - RECREATIONAL SITES

ACQUISITION OR USE OF PUBLIC LANDS BY STATES, COUNTIES, OR MUNICIPALITIES FOR RECREATIONAL PURPOSES

Sec.
254.1 Statutory authority.
254.2 Lands subject to disposition.
254.3 Applications.
254.4 Action on applications.
254.5 Reports of regional field examiner and of Chief Forester, O. and C. Lands.

Sec.
254.6 Cooperation with the National Park Service.
254.7 Evidence required with applications for exchange; payments for lands classified as subject to sale or lease. - amended by Circ 1801
254.8 Mineral reservation and forfeiture provision in patents; disposition of minerals.
254.9 Disposition of proceeds from sales or leases.

AUTHORITY: Secs. 254.1 to 254.9, inclusive, issued under 44 Stat. 741, 45 Stat. 429; 43 U.S.C. 869, 869a.

ACQUISITION OR USE OF PUBLIC LANDS BY STATES, COUNTIES, OR MUNICIPALITIES FOR RECREATIONAL PURPOSES

Section 254.1 Statutory authority. By the Act of June 14, 1926 (44 Stat. 741; 43 U.S.C. 869), the Secretary of the Interior is authorized, in his discretion, to make preliminary withdrawals for classification and to sell or lease unreserved nonmineral public lands to States, counties, or municipalities for recreational purposes. The acquisition of such lands by States as recreational sites through exchange is also authorized. The Act of April 13, 1928 (45 Stat. 429; 43 U.S.C. 869a), extended the provisions of the said Act of June 14, 1926, to revested Oregon & California Railroad and Coos Bay Wagon Road grant lands under certain conditions. These lands are referred to in this part as revested lands.

In view of the provisions of the Act of August 28, 1937 (50 Stat. 874), the revested lands may not now be purchased or acquired through exchange under the Act of April 23, 1928. They may, however, in proper cases, be leased under the Act of April 23, 1928, for recreational purposes.

1085-A

Lt Circ 1801

If the lands have been classified as subject to sale or lease for recreational purposes, the applicant shall then be called on to tender the amount fixed as the purchase price or annual rental. Publication of notice of applications to purchase, and of State exchanges, will be required in accordance with the practice governing sales of public lands and State indemnity selections, respectively. So far as applicable, the general regulations of the Department relating to the execution of contracts will be followed in the preparation of leases issued. Any revested lands leased for recreational purposes shall thereafter be exempt from any further claim by the county wherein such leased lands are located for payment of moneys, the equivalent of taxes, as authorized under the Acts of August 28, 1937 (50 Stat. 874), and May 24, 1939 (53 Stat. 753). During the existence of any such lease, the timber on the land will not be sold.

Applications presented under the regulations in this part not in substantial conformity with the requirements herein made and not accompanied by the prescribed proof will be rejected subject to appeal or curing the defect where possible.

254.8 Mineral reservation and forfeiture provision in patents; disposition of minerals. Any patent or lease issued to a State, county, or municipality will contain the mineral reservation and forfeiture provision prescribed by the law. No provision is made at this time for development of the reserved mineral deposits in lands to be conveyed or leased under the terms of this law, and until such regulations shall have issued the reserved deposits will not be subject to disposition.

254.9 Disposition of proceeds from sales or leases. The proceeds from sales or leases under the general law will be credited to Sales of Public Lands except in those instances in which other provisions have been made in the laws authorizing disposition of the land. All moneys received from or on account of any revested lands leased under the Act of April 13, 1928 (45 Stat. 429; 43 U.S.C. 869a), shall be applied in the manner prescribed by the Acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), as amended by the Acts of August 28, 1937 (50 Stat. 874), and May 24, 1939 (53 Stat. 753).

Regulations superseded. The foregoing regulations supersede secs. 254.1 to 254.8, inclusive, of Title 43 of the Code of Federal Regulations (Circular 1085, July 16, 1931, 53 I.D. 408).

(Sgd) Fred W. Johnson,

Commissioner.

Approved: May 28, 1943.

(Sgd) Oscar L. Chapman,

Assistant Secretary.

254.5 Reports of regional field examiner and of Chief Forester, O. and C. Lands. Upon receipt of such an application, the regional field examiner will, if necessary, be instructed to cause an examination to be made to determine whether the land is nonmineral and chiefly valuable for recreational purposes. When an exchange is proposed, the examination will also determine the comparative values of the public and State lands involved. In order that the Department may determine a proper charge in case purchase or lease is desired, the regional field examiner will ascertain and report what is a fair and reasonable price per acre or annual rental for the land, taking into consideration the public purpose for which it is to be used.

When an application is filed for the leasing of any revested lands, the Chief Forester, O. and C. Lands, at Portland, Oregon, will be instructed to submit a report and recommendation thereon, and the regional field examiner may also, if necessary, be directed to report upon the land.

254.6 Cooperation with the National Park Service. In furtherance of the purposes of the Act of June 23, 1936 (49 Stat. 1894; 16 U.S.C. 17k), authorizing the Secretary of the Interior to aid the States and political subdivisions thereof in planning recreational areas, copies of the requests for field examinations will be sent to the National Park Service. The field examiners will obtain from the regional offices of that Service any available information concerning the recreational project involved. Upon receipt of the reports of the field examinations, copies thereof will be sent to the Director of the National Park Service for consideration and recommendation.

The Commissioner of the General Land Office will forward the reports and the National Park Service recommendation to the Secretary of the Interior with a recommendation, and thereafter will take such further action as may be necessary.

254.7 Evidence required with applications for exchange; payments for lands classified as subject to sale or lease. In the case of an application for exchange, if the land has been classified as subject thereto for recreational use, a deed of relinquishment of the base land must then be executed by the proper State officer or officers and should be submitted for examination without being recorded. The deed must be accompanied by a certificate of the officer, or officers, of the State charged with the care and disposal of the land reconveyed, and a certificate by the proper county recorder, showing that it has not been alienated or contracted to be alienated in any way by the State, that it is not in the possession, or subject to the claim, of any third party under any law or permission of the State, and that except for such conveyance the title of the State is unimpaired. In case any of the lands have been sold by the State and title again acquired, an abstract of such title will be necessary. Title insurance issued by a company which is acceptable to the Department of the Interior may be furnished in lieu of an abstract of title, provided the policy is free from conditions and stipulations not acceptable to the Department of the Interior. If the exchange is found satisfactory, the deed will be accepted and the selection approved, subject to the recording of the deed, which will be returned for that purpose.

In Circ 1801

The preliminary withdrawals will not be made where the lands are included in the general withdrawals for classification made by Executive Orders No. 6910 of November 26, 1934, and No. 6964 of February 5, 1935, as amended, or are within grazing districts.

254.2 Lands subject to disposition. Upon the filing of a proper application therefor, unreserved nonmineral public lands, surveyed or unsurveyed, exclusive of those situated in the Territory of Alaska, and not desired for Federal administration, may be withheld from appropriation in aid of the classification and disposition or use authorized by the Act. The land must be surveyed before title may be acquired. The period during which the lands will be so withheld will depend upon the good faith shown by the applicants in prosecuting the necessary preliminary work in connection with the recreational project involved.

254.3 Applications. Applications should be filed in duplicate in the proper district land office, should describe the land by legal subdivisions, if surveyed, or by metes and bounds in conformity with sec. 101.6, if unsurveyed, and contain a statement that the area is unoccupied and nonmineral and chiefly valuable for recreational purposes. Applications for lands affected by Executive Orders No. 6910 of November 26, 1934, and No. 6964 of February 5, 1935, as amended, or within grazing districts, may be considered only when accompanied by petitions for classification, as provided for in Part 296.

Applications should set forth the plan of recreational development proposed, giving details as to any contemplated improvements, and state whether acquisition is sought through exchange or purchase, or whether a lease is desired. They should contain proof or a citation of the authority of the official or officials signing the application to act for the State or county when a State or county recreational project is involved, or, when a municipal project is concerned, of the authority of the signing official or officials to act for the town or city. Under the terms of the law, all applications by municipalities must be approved by the duly constituted State or county officers. If acquisition through exchange is sought, the application of the State should contain a description of the State land proffered as a basis therefor, and state under what grant title thereto was acquired, since the law provides that only lands granted to a State by Congress may be accepted in exchange.

No fixed forms of application have been prepared, but these instructions should be followed as nearly as possible. The application of a State for an exchange should conform so far as applicable to the form used by the State in making application for indemnity for losses in its school grant, where the land tendered as a basis has been granted to the State by the United States for school or other purposes, and has thereafter remained the property of the State. The offered and selected lands must be described in terms of the public land surveys.

254.4 Action on applications. Upon receipt in the proper district land office of a duly executed application, the Register will assign a current serial number and at once forward it, in duplicate, to the General Land Office with a report as to the status of the land as shown by the records of his office.

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Circular No. 1085a

RECEIVED
DISTRICT LAND OFFICE
BILLINGS, MONTANA
JUN 14 1943
HOUR

still in effect 5/28/54

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

CODE OF FEDERAL REGULATIONS
TITLE 43 - PUBLIC LANDS: INTERIOR

See Circ 1801

PART 254 - RECREATIONAL SITES

ACQUISITION OR USE OF PUBLIC LANDS BY STATES, COUNTIES, OR MUNICIPALITIES FOR RECREATIONAL PURPOSES

Sec.
254.1 Statutory authority.
254.2 Lands subject to disposition.
254.3 Applications.
254.4 Action on applications.
254.5 Reports of regional field examiner and of Chief Forester, O. and C. Lands.
254.6 Cooperation with the National Park Service.
254.7 Evidence required with applications for exchange; payments for lands classified as subject to sale or lease. - amended by Circ 1801
254.8 Mineral reservation and forfeiture provision in patents; disposition of minerals.
254.9 Disposition of proceeds from sales or leases.

AUTHORITY: Secs. 254.1 to 254.9, inclusive, issued under 44 Stat. 741, 45 Stat. 429; 43 U.S.C. 869, 869a.

ACQUISITION OR USE OF PUBLIC LANDS BY STATES, COUNTIES, OR MUNICIPALITIES FOR RECREATIONAL PURPOSES

Section 254.1 Statutory authority. By the Act of June 14, 1926 (44 Stat. 741; 43 U.S.C. 869), the Secretary of the Interior is authorized, in his discretion, to make preliminary withdrawals for classification and to sell or lease unreserved nonmineral public lands to States, counties, or municipalities for recreational purposes. The acquisition of such lands by States as recreational sites through exchange is also authorized. The Act of April 13, 1928 (45 Stat. 429; 43 U.S.C. 869a), extended the provisions of the said Act of June 14, 1926, to revested Oregon & California Railroad and Coos Bay Wagon Road grant lands under certain conditions. These lands are referred to in this part as revested lands.

In view of the provisions of the Act of August 28, 1937 (50 Stat. 874), the revested lands may not now be purchased or acquired through exchange under the Act of April 23, 1928. They may, however, in proper cases, be leased under the Act of April 23, 1928, for recreational purposes.

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. LAND OFFICE
BILLINGS, MONTANA
Date AUG 29 1931
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Cir. 1085a

CIRCULAR 1085, AMENDED

RECREATIONAL SITES

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 16, 1931.

Revised Regulations Relating to the Acquisition or Use of Public Lands by States, Counties, or Municipalities for Recreational Purposes

Registers, United States Land Offices:

By the act of June 14, 1926 (44 Stat. 741), the Secretary of the Interior is authorized to make preliminary withdrawals for classification and sell or lease unreserved nonmineral public lands to States, counties, or municipalities for recreational purposes. The acquisition of such lands by States as recreational sites through exchange is also authorized. The act of April 13, 1928 (45 Stat. 429), extended the provisions of the said act of June 14, 1926, to revested Oregon & California Railroad and Coos Bay Wagon Road grant lands under certain conditions.

LANDS SUBJECT TO WITHDRAWAL

1. Unreserved nonmineral public lands not desired for Federal administration, surveyed or unsurveyed, exclusive of those situated in the Territory of Alaska, may be withheld from appropriation in aid of the classification and disposition or use authorized under a proper petition therefor. Any withdrawal for such purpose will, however, be subject to valid existing appropriations under the public land laws legally maintained. The land must be surveyed before title may be acquired. The duration of these withdrawals will depend upon the good faith shown by the petitioners in prosecuting the necessary preliminary work in connection with the recreational project involved.

The aforesaid act of April 13, 1928, is applicable only to such former Oregon & California Railroad and Coos Bay Wagon Road grant lands revested in the United States under the acts of June

Cir. 1085 (amended)

9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), as have been reported or classified under said act of 1916 as either timber or agricultural in character, lands classified thereunder as chiefly valuable for water-power sites and reserved for that purpose being excepted from the operation thereof. The lands subject to the recreational law as amended are hereinafter referred to as revested lands.

PETITIONS

2. Petitions for withdrawal should be addressed to the Secretary of the Interior and filed in duplicate in the proper district land office, should describe the land desired withdrawn by legal subdivisions, if surveyed, or by metes and bounds in conformity with the regulations approved November 3, 1909 (38 L. D. 287), if unsurveyed, and contain a statement that the area is unoccupied and nonmineral and chiefly valuable for recreational purposes.

Such petitions should set forth the plan of recreational development proposed, giving details as to any contemplated improvements, state whether acquisition is sought through exchange or purchase, or whether a lease is desired. They should contain proof or a citation of the authority of the official or officials signing the petition to act for the State or county or counties when a State or county recreational project is involved, or, when a municipal project is concerned, of the authority of the signing official or officials to act for the town or city, and, under the terms of the law, all such petitions must be ratified by the proper State or county officers. In event that acquisition is sought through exchange, the petition of the State seeking the exchange should contain a description of the State land proffered as a basis therefor.

Upon receipt in the proper district land office of a duly executed petition, the lands described therein will be temporarily segregated from disposition pending action thereon by the Secretary of the Interior. The register will assign a current serial number to the petition and at once forward the same, in duplicate, to the General Land Office with a report as to the status of the affected land as shown by the records of his office. Pending and during such temporary segregation, applications to enter or select any affected lands may be received and suspended. If the withdrawal applied for be not made as to the lands covered by suspended applications, the same will be allowed in the absence of other objection. If the petition for withdrawal be approved, all suspended applications will be rejected.

ACTION BY CHIEFS OF FIELD DIVISIONS

3. In event of favorable action upon such a petition, the proper chief of field division will, if necessary, be instructed to cause an

examination to be made to determine whether the withdrawn land is nonmineral and chiefly valuable for recreational purposes and will thereafter submit report to the Commissioner of the General Land Office. The report submitted will also contain information as to the comparative values of the public and State lands involved when an exchange is proposed. In order that the department may determine a proper charge in case purchase or lease is desired the chief of field division will ascertain and report what is a fair and reasonable price per acre or annual rental for the area, taking into consideration the purpose for which it is to be used. The Commissioner of the General Land Office will forward such reports to the Secretary of the Interior with recommendation.

When application is filed for any revested lands classified or reported as timber in character the District Cadastral Engineer at Portland, Oreg., will be instructed to submit report and recommendation thereon, and the chief of field division may also, if necessary be directed to report upon the land.

APPLICATIONS

4. The Commissioner of the General Land Office will notify the register of the district land office in which the land is situated of the findings of the department and the register will then advise the State, county, or municipality which has requested the withdrawal thereof. Thereafter, in event the land has been found subject to use or acquisition under the law, such State, county, or municipality may file formal application for the land in the district land office. No fixed forms of applications have been prepared, but these instructions should be followed as nearly as possible.

The application of a State for an exchange should follow in so far as applicable the form used by the State in making application for indemnity for losses in its school grant where the land tendered as a basis has been granted to the State by the United States for school or other purposes and has thereafter remained the property of the State. A deed of relinquishment of the base land must be executed by the proper State officer or officers and should be submitted for examination without being recorded. Such deed must be accompanied by a certificate of the officer, or officers, of the State charged with the care and disposal of the land reconveyed, showing that same has not been alienated or contracted to be alienated in any way by the State, that the said land is not in the possession of, or subject to the claim of any third party under any law or permission of the State, and that except for such conveyance the title of the State is unimpaired, together with a duly authenticated abstract of title showing that at the time the deed was executed the title was in the State making the conveyance and that the land was free from encumbrance of any kind. If the exchange is found satisfactory, the deed will be accepted and the selection approved, subject to the recording of the deed, which will be returned for that purpose, and to its retransmittal accompanied by a supplemental abstract brought down to show such recordation and that the land is free from all liens or encumbrances and supplemental certificate by the State of nonencumbrance. Only such lands as are within or contiguous to the former limits of the Oregon & California Railroad and Coos Bay Wagon Road grants may be accepted in exchange for such grant lands, and all lands and timber secured by virtue of any such exchange shall be disposed of in accordance with the terms and provisions of the revestment act of June 9, 1916 (39 Stat. 218).

There should be tendered with the application of a State, county, or municipality to purchase or lease lands withdrawn under this law the amount fixed as the purchase price or as annual rental therefor. Such application should contain proof or a citation of the authority of the official or officials signing the application to represent the State, county, or municipality in the transaction. No sale of revested lands of class 3, agricultural lands, shall be made for less than $2.50 per acre and of lands of class 2, timberlands, for less than the appraised value of the timber thereon. Publication of notice of applications to purchase will be required in accordance with the practice governing sales of public lands. In so far as applicable, the general regulations of the department relating to the execution of contracts will be followed in the preparation of leases issued. Any revested lands leased for recreational purposes shall thereafter be exempt from any further claim by the county wherein such leased lands are located for payment of moneys, the equivalent of taxes, as authorized under the act of July 13, 1926 (44 Stat. 915). During the existence of any such lease, the timber on the land will not be sold.

Applications presented under these regulations not in substantial conformity with the requirements herein made and not accompanied by the prescribed proof will be rejected subject to appeal or curing the defect where possible.

RESERVATIONS AND CONDITIONS

5. Any patent or lease issued to a State, county, or municipality will contain the mineral reservation and forfeiture provision prescribed by the law. No provision is made at this time for development of the reserved mineral deposits in lands to be conveyed or leased under the terms of this law, and until such regulations shall have issued the reserved deposits will not be subject to disposition.

PROCEEDS

6. The proceeds from sales or leases under the general law will be credited to Sales of Public Lands except in those instances in which other provision has been made in the laws authorizing disposition of the land. All moneys received from or on account of any revested lands leased or sold or acquired through exchange under the amendatory act shall be applied in the manner prescribed by the acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179).

Former Circular No. 1085 of July 23, 1926 (51 L. D. 505), that part of Circular No. 1122 of April 27, 1927, relating to recreational sites (52 L. D. 135), and Circular No. 1156 of June 18, 1928 (52 L. D. 407), are hereby superseded and all instructions in conflict herewith are modified to conform hereto.

C. C. Moore, *Commissioner.*

Approved July 16, 1931:

Jos. M. Dixon, *First Assistant Secretary.*

ACT OF JUNE 14, 1926 (44 STAT. 741)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, authorized, in his discretion, to withhold from all forms of appropriation unreserved nonmineral public lands, which have been classified by him as chiefly valuable for recreational purposes and are not desired for Federal administration, but only after a petition requesting such withdrawal has been signed and filed by the duly constituted authorities of the States or of the county or counties within which the lands are located, and to accept title on behalf of the United States from any States in and to lands granted by Congress to such State, and in exchange therefor to patent to such State an equal quantity or value of surveyed land so withheld and classified, any patent so issued to contain a reservation to the United States of all mineral deposits in the land conveyed and of the right to mine and remove same, under regulations to be established by the Secretary, and a provision for reversion of title to the United States upon a finding by the Secretary of the Interior that for a period of five consecutive years such land has not been used by the State for park or recreational purposes, or that such land or any part thereof is being devoted to other use: *Provided*, That lands so withheld and classified may, in the discretion of the Secretary of the Interior, be also held subject to purchase and may be purchased by the State or county in

1085

which the lands are situated, or by an adjacent municipality in the same State, at a price to be fixed by the Secretary of the Interior, through appraisal or otherwise, subject to the same reservation of mineral deposits and the same provision for reversion of title as are prescribed for conveyances to the States in consummation of exchanges hereby authorized, or be held subject to lease and may be leased to such States, counties, or municipalities for recreational use at a reasonable annual rental for a period of twenty years, with privilege of renewal for a like period. And the Secretary of the Interior is hereby authorized to make all necessary rules and regulations for the purpose of carrying the provisions of this Act into effect: *Provided further*, That the Secretary of the Interior shall for each year make a report to Congress giving in detail a list of lands exchanged under the provisions of this Act.

ACT OF APRIL 13, 1928 (45 STAT. 429)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of Congress approved June 14, 1926 (Forty-fourth Statutes at Large, page 741), entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes," are hereby extended to former Oregon and California Railroad grant lands revested in the United States under the Act of June 9, 1916 (Thirty-ninth Statutes at Large, page 218), and to former Coos Bay Wagon Road grant lands reconveyed to the United States under the Act of February 26, 1919 (Fortieth Statutes at Large, page 1179): *Provided*, That any lands leased hereunder shall thereafter be exempt from any further claim by the county wherein such leased lands are located for payment of moneys, the equivalent of taxes, as authorized under the Relief Act of July 13, 1926 (Forty-fourth Statutes at Large, page 915): *Provided further*, That only such lands as are within or contiguous to the former limits of said grants may be accepted in an exchange hereunder for such former grant lands and that all lands and timber secured by virtue of any such exchange shall be disposed of in accordance with the terms and provisions of said Revestment Act of June 9, 1916: *And provided further*, That no sales of lands classified under said Act of June 9, 1916, as of class 3, or agricultural lands, shall be made for less than $2.50 per acre, and of lands of class 2, or timberlands, for less than the appraised value of the timber thereon.

SEC. 2. That all moneys received from or on account of any lands leased or sold hereunder shall be applied in the manner prescribed by the aforesaid Acts of June 9, 1916, and February 26, 1919.

U. S. GOVERNMENT PRINTING OFFICE: 1931

1085

Circular No. 1090.

DEFINING TRESPASS ON COAL LAND OF THE UNITED STATES AND PROVIDING PENALTY THEREFOR.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

August 23, 1926.

Division Inspectors.

Department of the Interior.

Gentlemen:

On July 3, 1926, there was approved an act of Congress (Public No. 501), which provides as follows:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to mine and remove coal of any character, whether anthracite, bituminous, or lignite, from beds or deposits in lands of the United States, or in deposits or beds reserved to the United States, with the intent wrongfully to appropriate, sell or dispose of the same, and every person who shall violate any of the provisions of this act, shall be deemed guilty of misdemeanor and fined not more than $1,000 or imprisoned not more than one year, or both.
>
> Sec. 2. Nothing in this act, however, shall interfere with any right or privilege conferred by existing laws of the United States."

You will give as much publicity to this act as possible without expense to the Government.

No special instructions under the act are deemed necessary as reports on trespass of the character defined in the act may be submitted in the same manner as other coal trespass reports, and your duties are the same as in other trespasses defined in the "Manual of Instructions," page 45, et seq.

Very respectfully,

WILLIAM SPRY,

Commissioner.

RULES OF PRACTICE

IN CASES BEFORE

THE UNITED STATES DISTRICT LAND OFFICES THE GENERAL LAND OFFICE, AND THE DEPARTMENT OF THE INTERIOR

EFFECTIVE FEBRUARY 1, 1911

[REPRINT SEPTEMBER 1, 1926, WITH AMENDMENTS]

See Circ 1749

WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

RULES OF PRACTICE

I

PROCEEDINGS BEFORE REGISTERS

INITIATION OF CONTESTS

Rule 1. Contests may be initiated by any person seeking to acquire title to, or claiming an interest in, the land involved, against a party to any entry, filing, or other claim under laws of Congress relating to the public lands, because of priority of claim, or for any sufficient cause affecting the legality or validity of the claim, not shown by the records of the Land Department.

Any protest or application to contest filed by any other person shall be forthwith referred to the Division Inspector, who will promptly investigate the same and recommend appropriate action.

APPLICATION TO CONTEST

Rule 2. Any person desiring to institute a contest must file, in duplicate, with the register, application in that behalf, together with statement under oath containing:

(*a*) Name and residence of each party adversely interested, including the age of each heir of any deceased entryman.

(*b*) Description and character of the land involved.

(*c*) Reference, so far as known to the applicant, to any proceedings pending for the acquisition of title to or the use of such lands.

(*d*) Statement, in ordinary and concise language, of the facts constituting the grounds of contest.

(*e*) Statement of the law under which applicant intends to acquire title and facts showing that he is qualified to do so.

(*f*) That the proceeding is not collusive or speculative, but is instituted and will be diligently pursued in good faith.

(*g*) Application that affiant be allowed to prove said allegations and that the entry, filing, or other claim be canceled.

(*h*) Address to which papers shall be sent for service on such applicant.

Rule 3.[1] The statements in the application must be corroborated by the affidavit of at least one witness having such personal knowledge of the facts in relation to the contested entry as, if proven, would render it subject to cancellation, and these facts must be set forth in his affidavit.

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[1] Amended Sept. 23, 1915.

Rule 4. The register may allow any application to contest without reference thereof to the commissioner; but he must immediately forward copy thereof to the Commissioner of the General Land Office, who will promptly cause proper notations to be made upon the records, and no patent or other evidence of title shall issue until and unless the case is closed in favor of the contestee.

CONTEST NOTICE

Rule 5. The register shall act promptly upon all applications to contest, and upon the allowance of any such application shall issue notice, directed to the persons adversely interested, containing:

(*a*) The names of the parties, description of the land involved, and identification, by appropriate reference, of the proceeding against which the contest is directed.

(*b*) Notice that unless the adverse party appears and answers the allegation of said contest within 30 days after service of notice the allegations of the contest will be taken as confessed.

(For contents of notice when publication is ordered, see Rule 9.)

SERVICE OF NOTICE

Rule 6. Notice of contest may be served on the adverse party personally or by publication.

Rule 7. Personal service of notice of contest may be made by any person over the age of 18 years, or by registered mail; when served by registered mail, proof thereof must be accompanied by post-office registry return receipt, showing personal delivery to the party to whom the same is directed; when service is made personally, proof thereof shall be by written acknowledgment of the person served, or by affidavit of the person serving the same, showing personal delivery to the party served; except when service is made by publication, copy of the affidavit of contest must be served with such notice.

When the contest is against the heirs of a deceased entryman, the notice shall be served on each heir.[2] If the heirs of the entryman are nonresident or unknown, notice may be served upon them by publication as hereinafter provided. If the person to be personally served is an infant under 14 years of age or a person who has been legally adjudged of unsound mind, service of notice shall be made by delivering a copy of the notice to the statutory guardian or committee of such infant or person of unsound mind, if there be one; if there be none, then by delivering a copy of the notice to the person having the infant or person of unsound mind in charge.

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[2] Amended July 13, 1921.

RULE 8.[3] Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 20 days after such order and proof of service of notice by publication is made not later than 20 days after the fourth publication, as specified in Rule 10, the contest shall abate: *Provided*, That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

SERVING NOTICE BY PUBLICATION

RULE 9. Notice of contest may be given by publication only when it appears, by affidavit by or on behalf of the contestant, filed within 30 days after the allowance of application to contest and within 10 days after its execution, that the adverse party can not be found, after due diligence and inquiry, made for the purpose of obtaining service of notice of contest within 15 days prior to the presentation of such affidavit, of the postmaster at the place of address of such adverse party appearing on the records of the land office and of the postmaster nearest the land in controversy and also of named persons residing in the vicinity of the land.

Such affidavit must state the last address of the adverse party as ascertained by the person executing the same.

The published notice of contest must give the names of the parties thereto, description of the land involved, identification by appropriate reference of the proceeding against which the contest is directed, the substance of the charges contained in the affidavit of contest, and a statement that upon failure to answer within 20 days after the completion of publication of such notice the allegations of said affidavit of contest will be taken as confessed.

The affidavit of contest need not be published.

There shall be published with the notice a statement of the dates of publication.

RULE 10.[4] Service of notice by publication shall be made by publishing notice at least once a week for four successive weeks in some newspaper published in the county wherein the land in contest lies; and if no newspaper be printed in such county, then in a newspaper printed in the county nearest to such land.

Copy of the notice as published, together with copy of the affidavit of contest, shall be sent by the contestant within 10 days after the first publication of such notice by registered mail directed to the party for service upon whom such publication is being made at the last address of such party as shown by the records of the land office and also at the address named in the affidavit for publication, and also at the post office nearest the land.

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[3] Amended Nov. 15, 1912, and Jan. 6, 1925.

[4] Amended Mar. 7, 1911.

Copy of the notice as published shall be posted in the office of the register and also in a conspicuous place upon the land involved, such posting to be made within 10 days after the first publication of notice as hereinabove provided.

RULE 11.[5] Proof of publication of notice shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the same, showing the publication thereof in accordance with these rules.

Proof of posting shall be by affidavit of the person who posted notice on the land, and the certificate of the register as to posting in the district land office.

Proof of the mailing of notice shall be by affidavit of the person who mailed the notice, attached to the postmaster's receipt for the letter or (if delivered) the registry return receipt.

DEFECTIVE SERVICE OF NOTICE

RULE 12. No contest proceeding shall abate because of any defect in the manner of service of notice in any case where copy of the notice or affidavit of contest is shown to have been received by the person to be served; but in such case the time to answer may be extended in the discretion of the register.

ANSWER BY CONTESTEE

RULE 13. Within 30 days after personal service of notice and affidavit of contest as above provided, or, if service is made by publication, within 20 days after the fourth publication, as prescribed by these rules, the party served must file with the register answer, under oath, specifically meeting and responding to the allegations of the contest, together with proof of service of a copy thereof upon the contestant by delivery of such copy at the address designated in the application to contest, or personally in the manner provided for the personal service of notice of contest.

Such answer shall contain or be accompanied by the address at which all notices or other papers shall be sent for service upon the party answering.

FAILURE TO ANSWER

RULE 14.[6] Upon failure to serve and file answer as herein provided, the allegations of the contest will be taken as confessed, and the register will forthwith forward the case, with recommendation thereon, to the General Land Office, and notify the parties by ordinary mail of the action taken.

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[5] Amended Jan. 6, 1925.

[6] Amended Apr. 17, 1926.

DATE AND NOTICE OF TRIAL

Rule 15. Upon the filing of answer and proof of service thereof the register will forthwith fix a time and place for taking testimony, and notify all parties thereof by registered-letter mail not less than 20 days in advance of the date fixed.

PLACE OF SERVICE OF PAPERS

Rule 16. Proof of delivery of papers required to be served upon the contestant at the place designated under clause "*h*" of Rule 2 in the application to contest, and upon any adverse party at the place designated in the answer, or at such other place as may be designated in writing by the person to be served, shall be sufficient for all purposes; and where notice of contest has been given by registered mail, and the registry-return receipt shows the same to have been received by the adverse party, proof of delivery at the address at which such notice was so received shall, in the absence of other direction by such adverse party, be sufficient.

Where a party has appeared and is represented by counsel, service of papers upon such counsel shall be sufficient.

CONTINUANCE

Rule 17. Hearing may be postponed because of absence of a material witness when the party applying for continuance makes affidavit, and it appears to the satisfaction of the officer presiding at such hearing, that—

(*a*) The matter to which such witness would testify, if present, is material.

(*b*) That proper diligence has been exercised to procure his attendance, and that his absence is without procurement or consent of the party on whose behalf continuance is sought.

(*c*) That affiant believes the attendance of said witness can be had at the time to which continuance is sought.

(*d*) That the continuance is not sought for mere purposes of delay.

Rule 18. One continuance only shall be allowed to either party on account of absence of witnesses, unless the party applying for further continuance shall, at the same time, apply for order to take the testimony of the alleged absent witnesses by deposition.

Rule 19. No continuance shall be granted if the opposite party shall admit that the witness on account of whose absence continuance is desired would, if present, testify as stated in the application for continuance.

Continuances will be granted on behalf of the United States when the public interest requires the same, without affidavit on the part of the Government.

DEPOSITIONS AND INTERROGATORIES

Rule 20. Testimony may be taken by deposition when it appears by affidavit that—

(*a*) The witness resides more than 50 miles, by the usual traveled route, from the place of trial.

(*b*) The witness resides without, or is about to leave, the State or Territory, or is absent therefrom.

(*c*) From any cause it is apprehended that the witness may be unable to, or will refuse to, attend the hearing, in which case the deposition will be used only in the event personal attendance of the witness can not be obtained.

Rule 21. The party desiring to take deposition must serve upon the adverse party and file with the register affidavit setting forth the name and address of the witness and one or more of the above-named grounds for taking such deposition, and that the testimony sought is material; which affidavit must be accompanied by proposed interrogatories to be propounded to the witness.

Rule 22. The adverse party will, within 10 days after service of affidavit and interrogatories, as provided in the preceding rule, serve and file cross-interrogatories.

Rule 23. After the expiration of 10 days from the service of affidavit for the taking of deposition and direct interrogatories, commission to take the deposition shall be issued by the register directed to any officer authorized to administer oaths within the county where such deposition is to be taken, which commission shall be accompanied by a copy of all interrogatories filed.

Ten day's notice of the time and place of taking such deposition shall be given, by the party in whose behalf such deposition is to be taken, to the adverse party.

Rule 24. The officer before whom such deposition is taken shall cause each interrogatory to be written out, and the answer thereto inserted immediately thereafter, and said deposition, when completed, shall be read over to the witness and by him subscribed and sworn to in the usual manner before the witness is discharged, and said officer will thereupon attach his certificate to said deposition, stating that the same was subscribed and sworn to at the time and place therein mentioned.

Rule 25. The deposition, when completed and certified as aforesaid, together with the commission and interrogatories, must be inclosed in a sealed package, indorsed with the title of the proceeding in which the same is taken, and returned by mail or express to the register, who will indorse thereon the date of reception thereof, and the time of opening said deposition.

Rule 26. If the officer designated to take the deposition has no official seal, certificate of his official character under seal must accompany the return of the deposition.

Rule 27. Deposition may, by stipulation filed with the register be taken before any officer authorized to administer oaths, and either by oral examination or upon written interrogatories.

Rule 28. Testimony may, by order of the register and after such notice as he may direct, be taken by deposition before a United States commissioner, or other officer authorized to administer oaths near the land in controversy, at a time and place to be designated in a notice of such taking of testimony. The officer before whom such testimony is taken will, at the completion of the taking thereof, cause the same to be certified to, sealed, and transmitted to the register in the like manner as is provided with reference to depositions.

Rule 29. No charge will be made by the register for examining testimony taken by deposition.

Rule 30. Officers designated to take testimony will be allowed to charge such fees as are chargeable for similar services in the local courts, the same to be taxed in the same manner as costs are taxed by registers.

Rule 31. When the officer designated to take deposition can not act at the time fixed for taking the same, such deposition may be taken at the same time and place before any other qualified officer designated for that purpose by the officer named in the commission or by agreement of the parties.

Rule 32. No order for the taking of testimony shall be issued until after the expiration of time allowed for the filing of answer.

TRIALS

Rule 33. The register and other officers taking testimony may exclude from the trial all witnesses except the one testifying and the parties to the proceeding.

Rule 34. The register will be careful to reach, if possible, the exact condition and status of the land involved in any contest, and will ascertain all the facts having any bearing upon the rights of parties in interest; to this end said officer should, whenever necessary, personally interrogate and direct the examination of a witness.

Rule 35. In preemption cases the register will particularly ascertain the nature, extent, and value of alleged improvements; by whom made, and when; the true date of the settlement of persons claiming; the steps taken to mark and secure the claim; and the exact status of the land at that date as shown upon the records of his office.

Rule 36. In like manner, under the homestead and other laws, the conditions affecting the inception of the alleged right, as well as the subsequent acts of the respective claimants, must be fully and specifically examined.

Rule 37. Due opportunity will be allowed opposing claimants to cross-examine witnesses.

Rule 38. Objections to evidence will be duly noted, but not ruled upon, by the register, and such objections will be considered by the commissioner. Officers before whom testimony is taken will summarily stop examination which is obviously irrelevant.

Rule. 39. At the time set for hearing, or at any time to which the trial may be continued, the testimony of all the witnesses present shall be taken and reduced to writing.

When testimony is taken in shorthand the stenographic notes must be transcribed, and the transcription subscribed by the witness and attested by the officer before whom the testimony was taken: *Provided, however*, That when the parties shall, by stipulation, filed with the record, so agree, or when the defendant has failed to appear, or fails to participate in the trial, and the contestant shall in writing so request, such subscription may be dispensed with.

The transcript of testimony shall, in all cases, be accompanied by certificate of the officer or officers before whom the same was taken, showing that each witness was duly sworn before testifying, and, by affidavit of the stenographer who took the testimony, that the transcription thereof is correct.

Rule 40. If a defendant demurs to the sufficiency of the evidence, the register will forthwith rule thereon. If such demurrer is overruled, and the defendant elects to introduce no evidence, no further opportunity will be afforded him to submit proofs.

When testimony is taken, before an officer other than the register, demurrer to the evidence will be received and noted, but no ruling made thereon, and the taking of evidence on behalf of the defendant will be proceeded with; the register will rule upon such demurrer when the record is submitted for his consideration.

If said demurrer is sustained, the register will not be required to examine the defendant's testimony. If, however, the demurrer be overruled, all the evidence will be considered and decision rendered thereon.

Upon the completion of the evidence in a contest proceeding, the register will render a report and opinion thereon making full and specific reference to the posting and annotations upon the records

Rule 41. The register will, in writing, notify the parties to any proceeding of the conclusion therein, and that 15 days will be allowed from the receipt of such notice to move for new trial upon the ground of newly discovered evidence, and that if no motion for new trial is made, 30 days will be allowed from the receipt of such notice within which to appeal to the commissioner.

NEW TRIAL

RULE 42. The decision of the register will be vacated and new trial granted only upon the ground of newly discovered evidence, in accordance with the practice applicable to new trials in courts of justice: *Provided, however*, That no such application shall be granted except upon showing that the substantial rights of the applicant have been injuriously affected.

No appeal will be allowed from an order granting new trial, but the register will proceed at the earliest practicable time to retry the case, and will, so far as possible, use the testimony theretofore taken without reexamination of same witnesses, confining the taking of testimony to the newly discovered evidence.

RULE 43. Notice of motion for new trial, setting forth the grounds thereof, and accompanied by copies of all papers not already on file to be used in support of such motion, shall be served upon the adverse party, and, together with proof of service, filed with the register not more than 15 days after notice of decision; the adverse party shall, within 10 days after such notice, serve and file affidavits or other papers to be used by him in opposition to such motion.

RULE 44. Motions for new trial will not be considered or decided in the first instance by the commissioner or the Secretary of the Interior, or otherwise than on review of the decision thereof by the register.

RULE 45. If motion for new trial is not made, or if made and not allowed, the register will, at the expiration of the time for appeal, promptly forward the same, with the testimony and all papers in the case, to the commissioner, with letter of transmittal, describing the case by its title, nature of the contest, and the land involved.

The register will not, after forwarding of decision, as above provided, take further action in the case unless so instructed by the commissioner.

FINAL PROOF PENDING CONTEST

RULE 46.[7] The pendency of a contest will excuse the submission of final proof on the entry involved until a reasonable time after the disposition of the proceedings, but final or commutation proof may be submitted at any stage thereof. The payment of the final commissions or purchase money, as the case may be, should be deferred until the case is closed, when, if the contest is dismissed and the proof is found satisfactory, claimant will be allowed 30 days from notice within which to pay all sums due and furnish a nonalienation affidavit, upon receipt of which the proper form of final certificate will issue.

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[7] Amended May 16, 1916.

In such cases the fee for reducing the proof testimony to writing must be paid at the time the proof is submitted.

The final proof should be retained in the district land office until the record in the contest case is forwarded to the General Land Office, but will not be considered in determining the merits of the contest, though it may be used for the purpose of cross-examination during the trial.

In such cases the party making the proof will at the time of submitting same be required to pay the fees for reducing the testimony to writing.

APPEALS TO COMMISSIONER

Rule 47. No appeal from the action or decision of the register will be considered unless notice thereof is served and filed in the district land office in the manner and within the time specified in these rules.

Rule 48. Notice of appeal from the decision of the register shall be served and filed with such register within 30 days after receipt of notice of decision: *Provided*, *however*, That when motion for new trial is presented and denied, notice of such appeal shall be served within 15 days after receipt of notice of the denial of said motion.

Rule 49. No person who has failed to answer the contest affidavit, or, having answered, has failed to appear at the hearing, shall be allowed an appeal from the final action or decision of the register.

Rule 50. Such notice of appeal must be in writing, and set forth in clear, concise language the grounds of the appeal, in the form of specifications of error, which shall be separately stated and numbered; where error is based upon insufficiency of the evidence to justify the decision, in the assignment thereof the particulars wherein it is deemed insufficient must be specifically set forth in the notice. All grounds of error not assigned or noticed and argued in the brief will be considered as waived.

Upon failure to serve and file notice of appeal as herein provided the case will be closed.

Rule 51. When any party fails to move for a new trial or to appeal from the decision of the register within the time specified, such decision shall, as to such party, be final and will not be disturbed except in case of fraud or gross irregularity.

No case will be remanded for any defect which does not materially affect the aggrieved party.

Rule 52. All documents received by the register must be kept on file and the date of filing noted thereon; no papers will, under any circumstances, be removed from the files or from the custody of the register, but access to the same, under proper regulations, and so as not to interfere with transaction of public business, will be permitted to the parties or their attorneys.

COSTS AND APPORTIONMENT THEREOF

Rule 53. A contestant claiming preference right of entry under the second section of the act of May 14, 1880 (21 Stat. 140), must pay the costs of contest. In other cases each party must pay the cost of taking the direct examination of his own witnesses and the cross-examination on his behalf of other witnesses; the cost of noting motions, objections, and exceptions must be paid by the party on whose behalf the same are made.

Rule 54. Accumulation of excessive costs will not be permitted. When the officer before whom testimony is being taken shall rule that a course of examination is irrelevant, the same will not proceed except at the sole cost of the party insisting thereon and upon his depositing the amount reasonably sufficient to pay therefor.

Rule 55. Where a party contesting a claim shall by virtue of actual settlement and improvement establish his right of entry of the land in contest under the preemption, homestead, or desert-land laws by virtue of settlement and improvement without reference to the act of May 14, 1880, the costs of contest will be imposed as prescribed in the second clause of Rule 53.

Rule 56. The only cost of contest chargeable by registers are the legal fees for reducing testimony to writing. No other contest fees or costs will be allowed to or charged by those officers, directly or indirectly.

Rule 57. Registers may at any time require either party to give security for costs, including expense of taking and transcribing testimony.

Rule 58. Upon the filing of the transcript of the testimony in the local office, any excess in the sum deposited as security for costs of transcribing testimony will be returned to the parties depositing the same.

Rule 59. When hearings are ordered on behalf of the Government, all costs incurred on its behalf will be paid from the proper appropriation, and when, upon the discovery of reason for suspension in the usual course of examination of entries and contest, hearings are ordered between contending parties, the costs will be paid as required by Rule 53.

Rule 60. The costs provided for by the preceding rules will be collected by the register when the parties are brought before him in obedience to the order for hearing.

Rule 61 was abolished by Circular No. 962, approved October 10, 1924 (50 L. D. 656).

PREPARATION OF NOTICES

Rule 62. All notices and other papers not required to be served by the register must be prepared and served by the respective parties.

RULE 63. The register will require proper provision to be made for such notices not specifically provided for in these rules as may become necessary in the usual progress of the case to final decision.

APPEAL FROM DECISION REJECTING APPLICATION TO ENTER PUBLIC LANDS

RULE 64. To facilitate appeals from his action relative to applications to file, enter, or locate upon the public lands, the register will—

(*a*) Indorse upon every rejected application the date of presentation and reasons for rejection.

(*b*) Promptly advise the party in interest of the action and of his right of appeal.

(*c*) Note upon his records a memorandum of the transaction.

RULE 65. The party aggrieved will be allowed 30 days from receipt of notice in which to file notice of appeal in the district land office. The notice of appeal, when filed, will be forwarded to the General Land Office with full report upon the case, which should recite all the facts and proceedings had and must embrace the following particulars:

(*a*) The original application, with reasons for the rejection thereof.

(*b*) Description of the tract involved and statement of its status, as shown by the records of the district office.

(*c*) Reference to all entries, filings, annotations, memorandum, and correspondence shown by the record relating to said tract and to the proceedings had.

II

PROCEEDINGS BEFORE THE DISTRICT CADASTRAL ENGINEER

RULE 66. The proceedings in hearings and contests before the district cadastral engineer shall, as to notices, depositions, and other matters, be governed as nearly as may be by the rules prescribed for proceedings before registers, unless otherwise provided by law.

III

PROCEEDINGS BEFORE THE COMMISSIONER OF THE GENERAL LAND OFFICE AND SECRETARY OF THE INTERIOR

EXAMINATION AND ARGUMENT

RULE 67. The commissioner will cause notice to be given to each party in interest whose address is known of any order or decision affecting the merits of the case or the regular order of proceedings therein.

RULE 68. No additional evidence will be admitted or considered by the commissioner unless offered under stipulation of the parties or in support of a mineral application or protest: *Provided, however,* That the commissioner may order further investigation made or evidence submitted upon particular matters to be by him specifically designated.

Affidavits or other ex parte statements filed in the office of the commissioner will not be considered in finally determining any controversy upon the merits.

Rule 69. After receipt of the record by the commissioner 30 days will be allowed to expire before any action is taken thereon, unless, in the judgment of the commissioner, public policy or private necessity shall require summary action, in which event he will proceed at his discretion, first notifying the attorneys of record of his intention so to do: *Provided*, That where no appeal has been filed the case may be immediately considered and disposed of.

Rule 70. If brief is not filed before a case is reached in its order for examination, the argument will be considered closed, and no further argument or motion of any kind will be entertained, except upon application and upon good cause appearing to the commissioner therefor.

Rule 71. In the discretion of the commissioner, oral argument may be presented, at a time to be fixed by him and upon notice to opposing counsel, which notice shall specify the time for such argument and the specific matter to be discussed. Except as herein provided, oral hearings or suggestions will not be allowed.

REHEARINGS

Rule 72. No motion for rehearing of any decision rendered by the Commissioner of the General Land Office will be allowed.

MOTIONS

Rule 73. No motion shall be entertained or considered in any case after the record has been transmitted to a reviewing officer.

In ex parte cases, where the entryman has been allowed by the commissioner to furnish additional evidence or to show cause, or, in the alternative, to appeal, both the evidence or showing and the appeal are filed, the commissioner shall pass upon the evidence or showing submitted, and, if found sufficient, note the appeal as closed. If such evidence or showing be found insufficient, the appeal will be forwarded to the Secretary as in other cases.

APPEAL FROM THE COMMISSIONER TO THE SECRETARY

Rule 74. Except as herein otherwise provided, an appeal may be taken to the Secretary of the Interior from the final decision of the commissioner in any proceeding relating to the disposal of the public lands and private claims.

Rule 75. No appeal shall be had from the action of the commissioner affirming the decision of the register in any case where the party adversely affected shall have failed to appeal from the decision of said register.

Rule 76. Notice of appeal from the commissioner's decision must be served upon the adverse party and filed in the office of the register or in the General Land Office within 30 days from the date of service of notice of such decision.

Rule 77. When the commissioner considers an appeal defective he will notify the party thereof; and if the defect be not cured within 15 days from the date of receipt of such notice, the appeal may be dismissed and the case closed.

Rule 78. In proceedings before the commissioner in which he shall decide that a party has no right to appeal to the Secretary, such party may apply to the Secretary for an order directing the commissioner to certify said proceedings to the Secretary and suspend action until the Secretary shall pass upon the same; such application shall be in writing, under oath, and fully and specifically set forth the grounds upon which the same is made.

Rule 79. When the commissioner shall decide against the right of appeal he will suspend action on the case for 20 days from service of notice of such decision to enable the party against whom the decision is rendered to apply to the Secretary for an order certifying the record as hereinabove provided.

Rule 80. The appellant will be allowed 20 days after service of notice of appeal within which to serve and file brief and specification of error, as provided by Rule 50, the adverse party 20 days after service of such within which to serve and file reply thereto; appellant will be allowed 10 days after service of such reply within which to serve and file response: *Provided*, *however*, That if either party is not represented by counsel having offices in the city of Washington, 10 days in addition to each period above specified will be allowed within which to serve and file the respective briefs.

No arguments otherwise than above provided shall be made or filed without permission of the Secretary or commissioner granted upon notice to the adverse party.

Rule 81. (Abolished.)

ORAL ARGUMENT BEFORE THE SECRETARY

Rule 82.[8] Oral argument in any case pending before the Secretary of the Interior will be allowed, on motion, in the discretion of the Secretary, at a time to be fixed by him, after notice to the parties. The counsel for each party will be allowed only one-half an hour, unless an extension of time is ordered before the argument begins.

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[8] Amended Nov. 6, 1911

REHEARING OF SECRETARY'S DECISION

Rule 83.[9] Motions for rehearing before the Secretary must be filed within 30 days after receipt of notice of the decision complained of and will act as a supersedeas of the decision until otherwise directed by the Secretary. Such motions, briefs, and arguments must not be served on the opposite party and must be filed directly with the Secretary of Interior, Washington, D. C.

Any such motion must state concisely and specifically the grounds upon which the motion for rehearing is based and be accompanied by brief and argument in support thereof.

If proper grounds are not shown the rehearing will be denied and sent to the files of the General Land Office, whereupon the commissioner will proceed to execute the decision before rendered. If upon examination grounds sufficient for rehearing are shown, a rehearing will be granted and the moving party will be notified that he will be allowed 15 days from receipt of notice within which to serve a copy of his motion, together with all argument in support thereof, on the opposite party, who will be allowed 30 days thereafter in which to file and serve answer, brief, and argument. Thereafter the cause or matter will be again considered and appropriate action taken, which may consist either in adhering to the former decision or modifying or vacating the same, or the making of any further or other order deemed warranted.

As applied to the Territory of Alaska, the periods of time granted by this rule shall be doubled.

MOTIONS FOR REVIEW AND REREVIEW

Rule 84. Motions for review and rereview are hereby abolished.

SUPERVISORY POWER OF SECRETARY

Rule 85. Motion for the exercise of supervisory power will be considered only when accompanied by positive showing of extraordinary emergency or exigency demanding the exercise of such authority.

In proceedings before the Secretary of the Interior the same rules shall govern, in so far as applicable, as are provided for proceedings before the Commissioner of the General Land Office.

Rule 86. No rule here prescribed shall be construed to deprive the Secretary of the Interior of any direct or supervisory power conferred upon him by law.

ATTORNEYS

Rule 87.[10] Every attorney, before practicing before the Department of the Interior and its bureaus, must comply with the requirements of the regulations prescribed by the Secretary of the Interior pursuant to section 5 of the act of July 4, 1884 (23 Stat. 101).

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[9] Amended Oct. 25, 1915.

[10] Amended Apr. 9, 1915.

Rule 88. In all cases where any party is represented by attorney, such attorney will be recognized as fully controlling the same on behalf of his client, and service of any notice or other paper relating to such proceedings upon such attorney will be deemed notice to the party in interest.

Where a party is represented by more than one attorney service of notice or other papers upon one of said attorneys shall be sufficient.

Rule 89. No person hereafter appearing as a party or attorney in any case shall be entitled to notice of any proceeding therein who does not, at the time of appearance, file in the office in which the case is pending a statement showing his name and post-office address and the name and post-office address of the party whom he represents.

Rule 90. Any attorney in good standing employed, and whose appearance is regularly entered in any case pending before the department, will be allowed full opportunity to consult the records therein, together with abstracts, field notes, tract books, and correspondence which is not deemed privileged and confidential.

Rule 91. Verbal or other inquiries by parties or counsel directed to any employee of the department, except the commissioner, assistant commissioner, or chief of division of the General Land Office, or the Secretary and Assistant Secretaries, the Solicitor, members of the Board of Appeals, or the Supervising Attorney, or with the consent of one or more of said officers, is expressly forbidden.

Rule 92. Abuse of the privilege of examining records of the department or violation of the foregoing rule by any attorney will be treated as sufficient cause for institution of disbarment proceedings.

SERVICE OF NOTICES

Rule 94.[11] Fifteen days, exclusive of the day of mailing, will be allowed for the transmission of notice or other papers by mail from the General Land Office, except in case of notice to resident attorneys, in which case one day will be allowed.

In computing time for service of papers under these rules of practice the first day shall be excluded and the last day included: *Provided*, That where the last day is a Sunday, a legal holiday, or half holiday such time shall include the next full business day.

Rule 95.[12] Notice of all motions and proceedings before the commissioner or Secretary, except as specified below, shall be served upon parties or counsel personally or by registered mail, and no motion will be entertained except on proof of service of notice thereof. As to motions for rehearing, petitions for certiorari and petitions for the exercise of supervisory authority before the Secretary, service of notice shall be made only after such proceeding has been entertained and service directed, as provided by Rule 83.

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[11] Amended Apr. 30, 1917.

[12] Amended Sept. 28, 1917

RULE 96. Ex parte proceedings and proceedings in which the adverse party does not appear will, as to notice of decision, time for appeal, and filing of exceptions and arguments, be governed by the rules prescribed in other cases, so far as the same are applicable. In such cases the commissioner or Secretary may, pursuant to application and upon good cause being shown therefor, permit additional evidence to be presented for the purpose of curing defects in the proofs of record.

INTERVENTION

RULE 97. No person shall be allowed to intervene in any case except upon application therefor, under oath, showing his interest therein.

HOW TRANSFEREES AND INCUMBRANCERS MAY ENTITLE THEMSELVES TO NOTICE OF CONTEST OR OTHER PROCEEDINGS

RULE 98.[13] Transferees and incumbrancers of land the title to which is claimed or is in process of acquisition under any public-land law shall, upon filing notice of the transfer or incumbrance in the district land office, become entitled to receive and be given the same notice of any contest or other proceeding thereafter had affecting such land which is required to be given the original entryman or claimant. Every such notice of a transfer or incumbrance must be forthwith noted upon the records of the district land office and be promptly reported to the General Land Office, where like notation thereof will be made. Thereafter such transferee or incumbrancer, as well as the entryman, must be made a party defendant to any proceeding against the entry.

ACKNOWLEDGMENT OF THE FILING OF APPLICATIONS AND OTHER PAPERS

RULE 99.[14] The Secretary and the Commissioner of the General Land Office will not acknowledge the receipt of papers forwarded by mail, but if a prepared receipt is forwarded to a district land office with any paper the register will sign and return the receipt to the party who forwarded the same, after inserting the date and the serial number.

NOTICE OF PREFERENCE RIGHT

RULE 100. Where preference right of entry is awarded under section 2 of the act of May 14, 1880 (21 Stat. 140), the register will, after service of notice of such right upon contestant and the expiration of the 30 days allowed for exercise thereof, transmit to the Commissioner of the General Land Office by special letter the evidence of service for filing with the canceled entry record. A fee of $1 for giving such notice must be tendered to the register of the district land office before any application for the land will be approved.

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[13] Adopted Sept. 23, 1915.

[14] Adopted Nov. 10, 1915.

Very respectfully,

William Spry,
Commissioner.

Approved.
E. C. Finney,
First Assistant Secretary.

INDEX

Rule

- **Affidavits, ex parte**, 68
- **Appeal:**
  - To commissioner, 41, 47–51
    - In contest proceeding—
      - By whom, 49
      - Failure to, 51
      - Notice of, 47, 48, 50
    - From rejection of application to enter, 64
      - Notice of, 65
  - To secretary, 74–80
    - Brief and argument, 80
    - Certiorari, 78, 79
    - Defective, 77
    - Notice of, 76
    - When allowed, 74, 75
- **Applications to enter:**
  - Appeals from rejection, 65
  - How receipts therefor may be obtained, 99
- **Attorneys:**
  - Information, requests for, 90, 92
  - Notice to, 88, 89
  - Oath, 87
  - Recognition, 88
  - Records, examination of, 90, 92
  - Violation of rules, 92
- **Briefs:**
  - Before commissioner, 70
  - Before Secretary, 80
  - Receipt will not be acknowledged by commissioner or Secretary, 99
- **Certiorari**, 78, 79
- **Commissioner of General Land Office; proceedings before:**
  - Action not taken until 30 days after receipt of record, 69
  - Affidavits, ex parte, 68
  - Briefs, 70
  - Evidence, additional, 68
  - Notice of decision, 67
  - Oral argument, 71
  - Will not acknowledge receipt of papers, 99
- **Contest:**
  - Abatement, 8, 12
  - Against what, 1
  - Allowance by register, 4
  - Answer of contestee, 12–14
  - Application, 2

Rule

- **District Cadastral Engineers** 66
- **Fees:**
  - Depositions 29, 30
  - Giving notice of preference right 100
  - Reducing testimony 46, 56
- **Files of district land office** 52
- **Final proof pending contest** 46
- **Hearing:**
  - Continuance 17, 18, 19
  - Time and place 15
- **Intervention** 97
- **Incumbrancer:**
  - Notice of interest may be filed 98
- **Mortgagee:**
  - When entitled to notice 98
- **Motions:**
  - Not entertained after transmittal of record to reviewing officer 73
  - Rehearing before Secretary 83
  - Rehearing before commissioner not allowed 72
  - Review and rereview before Secretary abolished 84
  - Supervisory authority 85
- **New trial:**
  - Appeal not allowed from order granting 42
  - Register must primarily pass upon motion 44
  - Newly discovered evidence 42
  - Notice 43
  - Proceeding where motion is denied 45
  - Time allowed for 41
- **Notice:**
  - Appeal from rejection of application to enter 65
  - Appeal to Secretary 76
  - Appeal to commissioner 47, 48
  - Attorney 88, 89
  - Contest 5–13
  - Decision by district officers 41
  - Decision by commissioner 67
  - Deposition 23
  - Incumbrancer 98
  - Mail 94
  - Mortgagee 98
  - Motions and proceedings before Secretary and commissioner 95
  - New trial 43
  - Not specifically provided for by rules 63
  - Preference right 100
  - Prepared and served by parties 62
  - Trial 15
- **Oral argument:**
  - Before Secretary 82
  - Before commissioner 71
- **Preparation of notices** 62–63
- **Records:**
  - In district offices 52
  - Inspection by attorney 90

Rule

Rehearing:
  Decision of Secretary 83
  Decision of commissioner 83
Review and rereview 84
Rules of Practice:
  Do not deprive Secretary of supervisory power 86
Secretary; proceedings before:
  Same as before commissioner, so far as applicable 85
  Will not acknowledge the receipt of papers 99
Supervisory authority of Secretary 85, 86
Testimony:
  Before register 39
  By deposition 20–34
Trial:
  Date and notice of 15
  Decision of register 40, 41
  Demurrer to evidence 40
  Notice of decision, right of appeal and new trial 41
  Testimony 38, 39
  Witnesses 33–37
Witnesses:
  Cross-examination 37
  Exclusion from trial 33
  Personal examination by register 34–36

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9741

Office Copy

Circular No. 1093a

Obsolete
See Circ. 1839

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

- - -

SALE OF DEAD, DOWN, OR DAMAGED TIMBER, OR TIMBER THREATENED WITH DAMAGE

Regulations contained in Sections 284.1-284.22, Title 43, of the Code of Federal Regulations

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(Reprint, December 1, 1942, with amendmants.)

9741

UNITED STATES DEPARTMENT OF THE INTERIOR

Harold L. Ickes, Secretary

- - - - -

GENERAL LAND OFFICE

December 1, 1942

FOREWORD

This pamphlet contains the codification of the rules and regulations assigned to Sections 284.1-284.22, Title 43, of the Code of Federal Regulations, with amendments to December 1, 1942. The regulations were codified and published pursuant to Section 11 of the Federal Register Act, as amended (50 Stat. 304; 44 U.S.C. 311).

The sections mentioned contain regulations relating to the sale of dead, down, or damaged timber, or timber threatened with damage.

The Federal Register Act makes the documents which were codified and published pursuant thereto prima-facie evidence of the text of such documents and of the fact that they are in full force and effect on and after the date of publication.

For the text of regulations issued after the date hereof, the daily issues of the Federal Register and pamphlet copies of the regulations issued by the General Land Office should be consulted.

Fred W. Johnson

Commissioner.

TABLE OF CONTENTS

Sec.
284.1 Statutory authority

284.2 Sale and cruise of timber

284.3 Advertisement; posting of notice

284.4 Information to be given in notice of sale

284.5 Submission of bids; deposit required; citizenship requirements

284.6 Action on bids

284.7 Contract and bond

284.8 Action in General Land Office; notice to purchaser

284.9 When deposit will be forfeited or returned

284.10 Commencement of cutting operations

284.11 Marking and measurement of timber

Sec.
284.12 Forest practice rules

284.13 Report by purchaser

284.14 Expense chargeable to purchaser, on default

284.15 Logging operations

284.16 Extension of period for cutting operations

284.17 Timber on unperfected claims, selections, and grants

284.18 Rights of settlers, homesteaders, and mineral claimants

284.19 Timber for use of settlers or residents

284.20 Disposition of moneys

284.21 Investigation of cutting operations

284.22 Unauthorized cutting

APPENDED

Application Form No. 4-173a
Consent of claimant Form No. 4-173b
Contract Form No. 4-173c containing "Forest Practice Rules and General Contract Stipulations
Bond Form No. 4-173d

SALE OF DEAD, DOWN, OR DAMAGED TIMBER, OR TIMBER THREATENED WITH DAMAGE.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Sec. 284.1 Statutory authority. The Act of March 4, 1913 (37 Stat. 1015), as amended by the Act of July 3, 1926 (44 Stat. 890; 16 U.S.C. 614, 615), permits the sale of all dead or down timber and timber seriously or permanently damaged by forest fires on vacant public lands outside of national forest, including ceded Indian lands, and including lands in the Territory of Alaska, and also lands embraced within unperfected or unapproved claims, grants, or selections over which the Department of the Interior has jurisdiction.

The Act of September 20, 1922 (42 Stat. 857; 16 U.S.C. 594), authorizes the Secretary of the Interior to protect and preserve from fire, disease, or the ravages of beetles, or other insects, timber owned by the United States upon the public lands and on other lands described in the Act. It is construed to confer authority to cut, remove, and sell timber from the public lands, whenever necessary for the purposes described.[1]

284.2 Sale and cruise of timber. Application requesting the sale of timber of the classes described in Section 284.1 must be made in duplicate on form 4-173a,[2] and filed in the proper district land office. The Register will give the application a serial number, note the filing on his serial number register, and fill out the status report on the back of the original and duplicate of the application. He will forward the original application to the General Land Office, with his regular returns, and the duplicate to the field officer designated by the Commissioner of the General Land Office to conduct the preliminary proceedings of the sale. If there is no district land office in the state, the application must be filed in the General Land Office.

The field officer in charge of the preliminary proceedings, upon receipt of the duplicate application, or whenever timber of the class described is found, for which there is a market, will cause a cruise thereof to be made, the timber, the disposal of which is contemplated, to be marked and measured in accordance with section 284.11, and a report of the cruise to be made to the General Land Office. The report should contain the following information:

(a) Description of the land upon which the timber is situated, by township and range and legal subdivisions thereof, is surveyed, or by natural objects sufficient to identify the land, if unsurveyed.

1/ Amended by Circ. 1511, June 4, 1942.

2/ Copy attached.

(b) Method of cruising used.

(c) Approximate percentage of the timber on the described area that is dead, down, or damaged by fire or insects, or threatened with damage, and the nature of the threat.

(d) The scale in thousand feet board measure of timber subject to sale and the kind of timber involved.

(e) The approximate market value of the timber per thousand feet board measure, the prospects of a sale, the location of the timber, and a minimum stumpage price per thousand feet board measure therefor; and

(f) The method and approximate expense of disposing of the brush, tops, lops, and other forest debris which will result from the felling and removing of the timber.[3]

284.3 Advertisement; posting of notice. After consideration of the report, the Commissioner of the General Land Office will, if deemed advisable, direct the officer in charge to offer the timber for sale under sealed bids by advertising for a period of 30 days, as follows:

(a) In cases of small quantities of timber amounting in value to $1,000 or less, the sale should be advertised by the posting of notices only.

(b) Where larger quantities of timber are involved, the sale should be advertised in one or two representative newspapers of general circulation in the field division wherein the timber to be sold is situated, once a week for 4 weeks if in a daily paper, or if in a weekly paper, for 4 consecutive weeks, next preceding the time set for the opening of the bids. And if the proposed sale be for 20,000,000 feet, board measure, or more, of timber available by location to a single logging operation, the officer in charge will also cause an advertisement of the proposed sale to be inserted once in two lumber trade journals of general circulation. During the period of advertising the officer in charge will also post copies of the advertisement where they will attract the notice of the general public.[4]

284.4 Information to be given in notice of sale. The notice of sale must announce the time and place of filing bids; contain a careful description of the land on which the timber is situated, giving the township and range and legal subdivision, or approximate legal subdivision, whether surveyed or unsurveyed, and shall also designate the location with reference to water courses, mountain tops, or other well-known natural objects; and state the scale in board feet and minimum stumpage value of the timber to be sold, the sum required to be deposited with the bid, the conditions by which the purchaser will be bound, and the name and address of the officer in charge from whom full information can be obtained. It shall also be stated that bidders offering a sum based on a rate less than the minimum stumpage price of the timber mentioned therein will not be considered and that the right to reject any or all bids is reserved.5/

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[3] Amended by Circ. 1520, Dec. 1, 1942.

[4] Amended by Circ. 1511, June 4, 1942.

284.5 Submission of bids; deposit required; citizenship requirements. Each bid submitted must be enclosed in a sealed envelope and transmitted to the officer in charge having jurisdiction of the timber sale. The envelope must be marked "Bid for Timber, sale date__________, 19____."

Only bids for all of the timber offered in the advertisement for sale as a unit will be considered. Each bid should state clearly the amount per thousand feet which the bidder will pay for the timber, as well as the total amount offered.

Each bid shall be accompanied by a certified check or post office money order for at least 20 percent of the total amount bid, the remittance to be made payable to the Commissioner of the General Land Office.

Every bidder, if an individual, will be required to show that he is a citizen of the United States or has declared his intention to become such citizen; if a partnership or association, that each member of the firm is such a citizen or declarant; or, if a corporation, that the corporation was organized under the laws of the United States or of some state, territory, or possession thereof, and that its stock is owned by such citizens or declarants.5/

284.6 Action on bids. The officer in charge will number the bids consecutively in the order in which they are received, and endorse thereon the date and hour of receipt and will on the day and at the hour set therefor open said bids and award said timber to the highest bidder. The officer in charge will, immediately upon the acceptance of a bid, notify the bidder thereof, and promptly forward a report thereon to the Commissioner of the General Land Office. When two or more bids in the same amount are received, or it appears that a monopoly might be created by an award to the highest bidder, or if it appears to be against the public interest for any other reason to accept the highest or the only bid, all bids will be transmitted, with a report, by the officer in charge to the Commissioner of the General Land Office, who will make the award or reject the bids, as the circumstances may warrant.5/

284.7 Contract and bond. The successful bidder will be allowed 30 days from notice of the award to execute, in quadruplicate, Form 4-173c,6/ "Timber Contract", which is made a part of this section, and file therewith a cash bond or a bond having a surety a bonding company shown in the then current

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5/ Amended by Circ. 1520, Dec. 1, 1942.

6/ Copy attached.

approved list of the Treasury Department. The bond should be prepared and executed on Form 4-173d 7/ and shall be conditioned on the faithful performance of the contract and on the observance of the applicable laws and regulations. The penalty of the bond shall be fixed by the Commissioner of the General Land Office in a sum of not less than 25 per cent of the amount of the bid. If the contract and bond are not submitted within the 30 days, the officer in charge will revoke the award by written notice, and award the timber to the next highest bidder.8/

284,8 Action in General Land Office; notice to purchaser. Immediately upon the execution of the contract and bond by the purchaser, the officer in charge shall transmit the same, with the certified check originally deposited, to the Commissioner of the General Land Office.

The Commissioner will execute or disapprove the contract when the purchase price of the timber does not exceed $10,000. When the purchase price is more than that amount, contracts will be entered into only with the express approval of the Secretary of the Interior. The bond guaranteeing the faithful performance of a contract shall be approved by the officer approving the contract.

The officer in charge will be notified of the action taken, and when a contract and bond are approved, will require the purchaser to complete payment for the timber.

The payment must be made by certified check or post office money order payable to the Commissioner of the General Land Office. Upon receipt of the payment, the officer in charge will forward it promptly to the Commissioner and advise the Register of such action.8/

284.9 When deposit will be forfeited or returned. Should a bidder whose bid has been accepted by the officer in charge fail to submit a contract and bond, as required by Section 284.7, the officer in charge will at once transmit the remittance to the Commissioner of the General Land Office, and the amount called for therein will be collected and retained by the United States as a forfeit.

Upon the acceptance of a bid by the officer in charge, the remittances of the bidder whose bids were rejected shall be returned to them.8/

284.10 Commencement of cutting operations. The cutting and removal of the timber may be commenced at any time after the delivery of the contract to the purchaser.8/

284.11 Marking and measurement of timber. Before timber is offered for sale, it will be carefully cruised by or under the supervision of the officer

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7/ Copy attached.

8/ Amended by Circ. 1520, Dec. 1, 1942.

in charge. Since the timber sold under authority of the Acts cited in Section 284.1 of these regulations will usually consist of only a part of the trees within a given area and of small amount in isolated or scattered tracts, the amount to be sold will be definitely ascertained through a determination of the volume of individual trees and the marking of the trees before the timber is offered for sale. In a white pine, ponderosa pine, or southern pine region, this determination of volume will be made on the basis of the Scribner Decimal C Log Rule with a maximum log length of sixteen feet and in the Douglas fir region upon the basis of the Scribner Decimal C Log Rule with a maximum log length of thirty-two feet.[9]

284.12 Forest Practice Rules. All timber sales will be made subject to the provisions of the "Forest Practice Rules," which are appended to and made a part of the Timber Contract, Section 284.7.[9]

284.13 Report by purchaser. The purchaser shall furnish the officer in charge such reports on the logging operations as that officer may require.[9]

284.14 Expense chargeable to purchaser, on default. If the purchaser fails to comply with any of the provisions of his contract, as to the disposal of the debris, or otherwise, and it becomes necessary for the United States to remove the debris or to incur other expense because of such default, the expense shall be charged to the purchaser, provided, however, that written notice shall first be given by the officer in charge that such action will be taken if the rules are not complied with within 30 days from the services of such notice.[9]

284.15 Logging Operations. The officer in charge shall see that so far as practicable all branches of the logging operations keep pace with each other, and the piling or burning of the brush and other debris shall not be allowed to fall behind the cutting and removing of the logs.[10]

284.16 Extension of period for cutting operations. The officer in charge shall determine the period within which all of the timber embraced within a sale shall be cut and removed, and completion of the cutting and removing within such period as shall be thus fixed shall be made a condition in the contract and in the bond. The action of the officer in charge shall be governed by the quantity of timber involved, the topography of the land, the accessibility of the timber, and any other circumstances that may have an influence on the cutting and removing. Owing to the nature of the timber subject to disposal under Sections 284.1-284.22, the cutting should be done as rapidly as possible and the final time limits should be restricted as far as practicable logging conditions will permit. Any extension of the period fixed in the contract will be granted only upon a showing that the completion of the cutting was unavoidably delayed by causes over which the purchaser had no control and that the interests of the Government will not be prejudiced thereby, and must be approved by the Commissioner of the General Land Office if the stumpage value of the timber is $10,000 or less, and by the Secretary of the Interior where more than that amount.[11]

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[9] Amended by Circ. 1520, Dec. 1, 1942.

[10] Amended by Circ. 1511, June 4, 1942.

284.17 Timber on unperfected claims, selections, and grants. Timber of the character described in the Act of March 4, 1913, as amended, located upon existing unperfected claims and upon unapproved selections and grants, may be disposed of in the same manner and under the same conditions as set forth in Sections 284.1-284.16, provided, however, that an application shall first be filed with the proper officer in charge by such claimant, selector, or grantee, or by a prospective purchaser, with the written consent[12] of such claimant, selector, or grantee, requesting that the timber on said claim, selection, or grant be offered for sale. Nothing herein shall prohibit such claimant, selector, or grantee from bidding for the timber thus offered.[13]

284.18 Rights of settlers, homesteaders, and mineral claimants. Nothing in the Act of March 4, 1913, as amended, or in Sections 284.1-284.22, shall be construed to abrogate or in any way modify the rights of settlers or homestead entrymen to cut and dispose of timber on their homestead claims, as explained in Sections 284.36-284.39, or the rights of miners to the enjoyment of the surface embraced within the area of their mining claims, as provided by section 2322, United States Revised Statutes (30 U. S. C. 26).

284.19 Timber for use of settlers or residents. If it shall be shown that there are settlers or residents within the vicinity of the vacant lands involved, who are in urgent need of timber for domestic purposes and it shall be necessary to procure the same from lands covered by applications for dead, down, or damaged timber, permits[14] may be granted under applications filed in accordance with the provisions contained in the Acts of June 3, 1878 (20 Stat. 88; 16 U.S.C. 604-606, or March 3, 1891) (26 Stat. 1093; 16 U.S.C. 607), and Acts amendatory hereof and supplemental thereto; provided, however, that said application shall be filed prior to the advertising of the timber for sale, as set forth in Section 284.3, 284.4. The amounts of timber thus applied for shall be deducted from the amount offered for sale and the advertisement shall state that the sale shall be subject to the rights of such applicants to procure the amounts of timber applied for.

284.20 Disposition of moneys. All sums deposited and paid in connection with timber sales made under Sections 284.1-284.22 will be deposited in the Treasury as required by the act of March 4, 1913, as amended (37 Stat.

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[11] Amended by Circ. 1511, June 4, 1942, and Circ. 1520, Dec. 1, 1942.

[12] Copy attached, Form No. 4-173b

[13] Amended by Circ. 1511, June 4, 1942

[14] Free use, 43 C.F.R. 284.23-284.35

1015; 44 Stat. 890; 16 U.S.C. 614, 615), or as otherwise provided by law.[15]

284.21 Investigation of cutting operations. The officer in charge shall cause investigations to be made from time to time and submit a final report at the expiration of the period allowed for the cutting and removing, showing whether or not the law and rules and regulations have been complied with and setting forth any infraction of the same.[16]

284.22 Unauthorized cutting. The cutting or removing of the timber referred to in Sections 284.1-284.21 in any other manner than that authorized by such sections will be considered a trespass.

Reprint of Sections 284.1-284.22, Title 43, of the Code of Federal Regulations based on Circulars 1093 and 1112 of September 11, 1926, and February 25, 1927, respectively, as amended by Circular 1511 of June 4, 1942, and Circular 1520 of December 1, 1942.

15/ Amended by Circ. 1520, Dec. 1, 1942.

16/ Amended by Circ. 1511, June 4, 1942.

Form 4-173a 9741-2

(To be filed in
duplicate)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

TIMBER SALE APPLICATION

Dead, down, or damaged timber, or timber threatened with damage.

Serial No.

The Commissioner
of the General Land Office,
Washington, D. C.

Sir:

Request is made that the timber on the public lands described below be offered for sale under the Act of March 4, 1913 (37 Stat. 1015) as amended by the Act of July 3, 1926 (44 Stat. 890; 16 U.S.C. 614, 615), and the Act of September 20, 1922 (42 Stat. 857; 16 U.S.C. 594), in accordance with the regulations thereunder (43 CFR 284.1-284.22; Circ. 1093a).

The timber is located on:[1] ____________________

____

____

____

Species and amount of the timber in board feet measure: ____________________

____

____

Condition of the timber: ____________________

____

____

____

____

____

This application is made by the undersigned in good faith, as a prospective purchaser.

____
(Applicant)

1/ If land is embraced in an unperfected claim, consent of the claimant to the sale of the timber must be furnished on Form 4-173b.

9741-2

Date ________ (Street or Post Office Address)

(City or Town)

(State)

Register's Status Report

Status of the lands described in the foregoing application is as follows:

____

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____

____

Register

Note: If the lands are in a grazing district, the register must obtain a report from the regional grazier as to whether the sale of the timber would interfere with the administration of the lands for grazing purposes. The timber sale application should not be forwarded to the General Land Office until such report has been obtained. The register's report should show the number of the grazing district, the date of the regional grazier's report, and the substance of the recommendations of that office. The regional grazier's report should be transmitted to the General Land Office with the timber sale application.

Form 4-173b 9741-3

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

CONSENT BY PUBLIC LAND CLAIMANT TO SALE OF TIMBER

When the sale of timber on land embraced within an unperfected claim is applied for, the timber applicant must obtain the consent thereto of the public-land claimant on this form.

Date______________________________

The Commissioner
of the General Land Office,
Washington, D. C.

Sir:

I have read or heard read the application of______________________________,
Serial No. ________________, District Land Office______________________________,
requesting the sale of dead, down, or damaged timber, or timber threatened with
damage on land embraced in my unperfected ______________________________,
Serial No. ______________, filed in the District Land Office at ______________,
on ______________________, 19______,

I hereby give my consent and approval to the sale of the above-mentioned timber on condition that the net proceeds to be derived from such sale, after deducting the cost of appraisal, advertising, and other expenses necessarily incurred by the Government in connection therewith, shall be paid to me by the Government when my claim has been finally approved and patented. If, however, the claim should be relinquished or canceled, the proceeds will become the property of the Government. Nothing herein shall prohibit me from bidding for the timber.

____
Claimant 1/

____
Street or other Address

____
City or Town

______________________________, whose post office address is______________
______________________________, State of ______________, being first duly sworn,
on his oath deposes and says that he is the person who executed the above consent, and that the statements contained therein are true.

Claimant ______________________________

Subscribed and sworn to before me at ______________________________
this ________________ day of __________________, 19 ________.
My commission expires ____, 19______.

____

____
Official Title

1/ If the claimant is a corporation or partnership, this form should be appropriately modified and evidence of the authority of the signing officer to execute the consent must be furnished.

Form 4-173c 9741-4

(To be filed in
quadruplicate)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

TIMBER CONTRACT

THIS AGREEMENT, entered into as of 19 , under authority of the Act of March 4, 1913 (37 Stat. 1015), as amended by the Act of July 3, 1926 (44 Stat. 890), and the Act of September 20, 1922 (42 Stat. 857), and the regulations thereunder set forth in 43 CFR 284.1-284.22 as amended, between THE UNITED STATES OF AMERICA, and (If a corporation, give the state of

under which laws incorporated and existing; if a partnership, give firm name),

hereinafter called the purchaser, witnesseth:

That the United States of America agrees to sell, and the purchaser agrees to buy, upon the terms and conditions herein stated and subject to compliance with the "Forest Practice Rules and General Contract Stipulations" appended to and made a part hereof, all of the merchantable dead or damaged timber, standing or fallen, and all of the merchantable green trees that have been marked for cutting by the officer in charge, for salvage purposes in accordance with the provisions of the Act of September 20, 1922, cited above

on the following-described lands, to wit:

situated in the County of , State of

FOR AND IN CONSIDERATION of the foregoing, the purchaser agrees, upon the approval of this contract by the authorized officer of the Government, to pay to the register of the proper district land office the sum of dollars in addition to the dollars ($) heretofore deposited at the time of submitting the bid for the timber, all of which constitutes the full purchase price of the timber at the following rates:

SPECIES	M FEET, B. M.	PRICE PER M	AMOUNT
Yellow Pine Sugar Pine Red Fir Yellow Fir White Fir Port Orford Cedar Red Cedar Incense Cedar			
TOTALS			

The purchaser further agrees that no timber will be cut until payment therefor has been made and that unless an extension of time is granted by the officer approving this contract, all timber will be cut and removed within years from the date of approval hereof.

It is further understood and agreed that this contract shall be null and void and of no effect until approved by the authorized officer of the Government and until the purchaser shall have deposited a cash bond or filed an acceptable corporate surety bond in the sum of dollars ($) with the Register of the District Land Office as a guarantee of the faithful performance of the terms of this contract; said cash bond to be returned to the purchaser or corporate surety bond declared null and void upon the completion of the contract; provided the terms of the agreement have been fully observed. It is further provided that if the terms of the agreement have not been fully conformed to as determined by the officer in charge the bond will be forfeited.

THE UNITED STATES OF AMERICA

By ____________________

Applicant ____________________
(See Footnote)

(CORPORATE SEAL,)
(IF A CORPORATION)

ATTEST:

Secretary, if corporation

Witnesses:

Post Office Address

Post Office Address

Footnote. If the applicant is an individual, he should sign the contract with his full Christian name and surname; if a corporation, a certified copy of the articles of incorporation and a regularly attested copy of the minutes of the meeting, resolution, or other order, authorizing the officers to sign must be furnished; and, if an association or partnership, a copy of the constitution and by-laws, or articles of agreement. Every bidder, if an individual, will be required to show that he is a citizen of the United States or has declared his intention to become such citizen; if a partnership or association, that each member of the firm is such a citizen or declarant; or, if a corporation, that the corporation was organized under the laws of the United States or of some state, territory or possession thereof, and that its stock is owned by such citizens or declarants.

FOREST PRACTICE RULES AND GENERAL CONTRACT STIPULATIONS

1. The term "officer in charge" as used in these stipulations shall be the person designated by the Commissioner of the General Land Office to supervise the timber contract of which these rules and stipulations constitute a part.

2. Title to the timber sold will not pass to the purchaser until paid for in full.

3. The timber shall be logged under the tree selection system; only trees marked "US" shall be cut; and the removal of the timber shall be conducted in a manner which will protect the young growth and preserve the forest cover in so far as practicable in all branches of the logging operations. The use of young trees in the construction of improvements may be restricted to the extent that the officer in charge considers advisable.

4. The areas to be logged in any season may be designated by the officer in charge when in his judgment this is necessary to prevent deterioration from fire, worms, or other cause, or to insure the logging of the sale unit in such manner as shall fully protect the interest of the United States.

5. All standing dead trees which have been designated for removal shall be cut and all merchantable logs in dead or fallen trees will be removed or paid for.

6. Firewood and improvements will be made as far as possible from unmerchantable material and material so used will not be charged to the purchaser. Wood and improvements taken from merchantable material not marked for cutting will be measured and charged for at double the stipulated prices.

7. The slash resulting from logging operations including all branches up to 4 inches in thickness lopped from tops and logs, will at the time of skidding be piled compactly and away from reserved trees on the whole area to be selectively logged.

8. Burning or other disposal of the slash by the purchaser will be done at such times and in such manner as may be required by the officer in charge.

9. Unsatisfactory disposal of slash will be cause for the officer in charge to suspend all operations of the purchaser until the unsatisfactory condition has been corrected.

10. Forest fires on the sale area or adjacent lands during the contract period will be prevented or suppressed by the purchaser, his employees, and subcontractors, whenever possible. When called upon by the officer in charge, they will work under his direction in the suppression of fires. If the purchaser or his employees or subcontractors were not directly or indirectly responsible by act or neglect for the origin or the spread of the fire, reimbursement will be made, except that such reimbursement shall not exceed one-half of the cost of suppression within the sale area.

11. Stumps will be cut low so as to avoid waste and the mean height of any stump will not exceed one-half its diameter, except where because of defect or deformity this height is considered impracticable by the officer in charge.

12. Carelessness on the part of fellers or other employees of the purchaser that results in unnecessary breaking of trees not marked for cutting will be penalized by scaling such trees full as if they had not been broken and requiring payment therefor at twice the rate per thousand feet board measure stipulated in the timber contract.

13. The vicinity of logging camps and stables will be kept in a clean and sanitary condition, and rubbish will be removed and properly burned or buried during the occupancy and upon the removal of the camps and stables.

14. Streams shall not be obstructed by felled trees or otherwise, nor shall they be polluted by sawdust, or any other refuse from camp or mill.

15. Existing telephone lines, fences, roads, trails, and other improvements shall be protected as far as possible in the logging operations, and whenever they are broken or obstructed the purchaser shall promptly repair the damage under penalty of forfeiture of contract for failure to make such repairs.

16. Improvements necessary to execute this contract, such as camps, sawmills, railroads, roads, telephone lines, chutes, bridges, sluices, and dams may be constructed and maintained by the purchaser on and across the contracted area, subject to regulation by the Commissioner of the General Land Office.

17. Improvements already on the area which are necessary for logging purposes may be used by the purchaser subject to regulation by the Commissioner of the General Land Office.

18. The time limit for the removal of the improvements and other property of the purchaser is one year after the expiration of the contract. After that time the title to improvements, including camps, will attach to the land, and no personal property of the purchaser will thereafter be removed except with the written consent of the officer in charge; provided, that improvements necessary for the logging of other public-land timber may be left for such time and on such terms as may be prescribed by the Commissioner of the General Land Office.

19. Extension of time for the preformance of this contract may be granted the purchaser by the officer approving the contract, in his discretion and subject to such conditions as he may impose.

20. If extension of time to cut and remove the timber is not granted by the officer approving the contract, the purchaser shall not cut timber after the expiration thereof, but he may remove the timber previously cut and paid for, within one year of the expiration of the contract. If not removed within the time allowed, the title will revert to the United States notwithstanding the purchaser may have paid for the timber.

21. Assignment of his contract in whole or in part by the purchaser will not relieve him of his contract obligations unless the assignment is approved by the officer approving the contract and the bond is satisfactorily renewed.

22. Suspension of the purchaser's operations may be made by the officer in charge after due notice if any requirements of the contract are disregarded and until there is satisfactory compliance. Failure to comply with any one of the requirements of his contract after written notice addressed to the purchaser by the officer in charge will be ground for revocation by the officer approving the contract, of all rights of the purchaser under the particular contract, and other contracts, and the forfeiture of his bond and of all moneys paid, and the purchaser will be liable for all damage resulting from his breach of contract.

23. An appeal as provided by the Rules of Practice of the Department of the Interior may be taken to the Commissioner of the General Land Office and Secretary of the Interior from the final decision of the officer in charge.

24. Whenever any bond furnished to guarantee sale obligations shall be unsatisfactory to the officer approving the sale he may require a new bond which shall be satisfactory to him.

25. No member or delegate of Congress shall be admitted to any share, part, or interest in this contract, or to any benefit derived therefrom (see Sections 114 and 116, of the Criminal Code 35 Stat. 1109; 18 U.S.C. 204, 206), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract (see Executive Order of May 18, 1905).

Form 4-173d 9741-5

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

BOND

KNOW ALL MEN BY THESE PRESENTS, That______________________________, of______________________________, State of____________________, as principal, and____, a corporation organized and existing under the laws of the State of____________________, having its principal office at________________________, as surety, are held and firmly bound unto the United States of America in the penal sum of ______________________________ dollars ($__________)1/ lawful money of the United States for the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors, administrators, successors, or assigns, jointly and severally, firmly by these presents.

Signed and sealed this__________day of______________, 19___.

The condition of the foregoing obligation is such that--

WHEREAS, ____, principal herein, on the______________day of______________, 19___ submitted a proposal to purchase certain timber as shown below:

SPECIES	M FEET, B. M.	PRICE PER M	AMOUNT
Yellow Pine			
Sugar Pine			
Red Fir			
Yellow Fir			
White Fir			
Port Orford Cedar			
Red Cedar			
Incense Cedar			
TOTALS			

1/ The penalty of the bond will be fixed by the Commissioner of the General Land Office in a sum not less than 25 per cent of the amount of the bid.

located on certain public lands in the State of______________________ described as follows, to wit:

____

____

____

____

____

and did stipulate and agree that if the said proposal was accepted by the authorized officer of the Department of the Interior, the proposal and its acceptance should constitute a binding contract for the sale of said timber in accordance with the regulations accompanying the proposal; and

WHEREAS, ____ did on the__________day of____________, 19___, duly accept said proposal, subject to the execution of a satisfactory contract and bond.

NOW, THEREFORE, if the said principal, heirs, executors, administrators, successors, and assigns, shall execute and faithfully conform to and observe the provisions of such contract and the laws and regulations applicable thereto, and in no respect violate the contract, laws or regulations, then and in that event, the above obligation shall be null and void, otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we hereunto set our hands and seals this the_______ day of____________________, 19___.

(CORPORATE SEAL)
(OF PRINCIPAL)
(IF CORPORATION)

______________________________ [L.S.]
Principal

(CORPORATE SEAL)
(OF SURETY)

______________________________ [L.S.]

The above bond is accepted this____________day of______________, 19___.

____

9376

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONT
Date OCT 4 - 1926

Circular No. 1093.

SUPERSEDING CIRCULAR NO. 258.

- - - - -

REGULATIONS GOVERNING THE SALE OF DEAD OR DOWN TIMBER OR TIMBER KILLED OR SERIOUSLY DAMAGED BY FOREST FIRES.

- - - 0 - - -

Obsolete
Replaced by 1839

Superseded
by
1093-A

UNITED STATES

DEPARTMENT OF THE INTERIOR

General Land Office

Washington September 11, 1926.

Division Inspectors.

Sirs:

The act of July 3, 1926 (Public No. 500, 69th Congress), amended the act of March 4, 1913 (37 Stat., 1015), to read as follows:

> "That the Secretary of the Interior is hereby authorized, under such rules as he may prescribe, to sell and dispose of to the highest bidder, at public auction or through sealed bids, dead or down timber, or timber which has been seriously or permanently damaged by forest fires, on any lands of the United States, outside the boundaries of national forests, including those embraced in unperfected claims under any of the public land laws, also upon the ceded Indian lands, the proceeds of all such sales to be covered into the Treasury of the United States: Provided, That such dead, down, or damaged timber upon any lands embraced in an existing claim shall be disposed of only upon the application or with the written consent of such claimant, and the money received from the sale of such timber on any such lands, shall be kept in a special fund to await the final determination of the claim.
>
> "SEC. 2. That upon the certification of the Secretary of the Interior that any such claim has been finally approved and patented, the Secretary of the Treasury is hereby authorized and directed to pay to such claimant, his heirs, or legal representatives, the money received from the sale of such timber upon his land, after deducting therefrom the expenses of the sale; and upon the certification of the Secretary of the Interior that any such claim has been finally rejected and canceled, the Secretary of the Treasury is hereby authorized and directed to transfer the money derived from the sale of such timber upon the lands embraced in such claim to the general fund in the Treasury derived from the sale of public lands, unless by legislation the lands from which the timber had been removed had been theretofore appropriated to the benefit of

an Indian tribe or otherwise, in which event the net proceeds derived from the sale of the timber shall be transferred to the fund of such tribe or otherwise credited or distributed as by law provided."

This act permits the sale of all dead or down timber and timber seriously or permanently damaged by forest fires on vacant public lands outside of national forests, including ceded Indian lands, and including lands in the Territory of Alaska, and also lands embraced within unperfected or unapproved claims, grants or selections, over which the Department of the Interior has jurisdiction.

Pursuant to the authority granted by the above act, the following rules and regulations are hereby prescribed:

1. Where such dead or down or fire-killed or damaged timber is found, or upon receipt of an application to purchase any of such described timber, upon vacant, unreserved Government lands, including ceded Indian lands, the Division Inspector of the division within which the timber is situated will cause a reconnaissance cruise to be made in order to obtain an approximate scale of the timber to be offered for sale, and will cause to be blazed, or otherwise marked, the outside boundaries of the areas from which the timber is to be sold so that they may be readily distinguishable on the ground. Reports on such cruises, with appropriate recommendations, should be promptly submitted to this office and should contain the following information:

(a) Description of the land upon which the timber is situated by township and range and legal subdivisions thereof, if surveyed, or by natural objects sufficient to identify the land if unsurveyed.

(b) Approximate percentage of the timber on the described area that is dead, down, or damaged by fire.

(c) The approximate scale in thousand feet board measure of timber subject to sale.

(d) The approximate market value thereof per thousand feet board measure and the prospects of a sale in its present condition and location, and fixing a minimum stumpage price per thousand feet board measure for the timber to be cut; and

(e) The method and approximate expense of disposing of the brush, tops, lops, and other forest debris which will result from the felling and removing of the timber.

2. Upon consideration of the report, the Commissioner of the General Land Office will, if the amount or the value of the timber warrants it, instruct the Division Inspector to offer the same for sale under sealed bids, by advertisement covering a period of not less than thirty (30) days, if in a daily paper to be published at least twice a week, and if in a weekly paper, at least four consecutive weeks, next preceding the time set for the opening of the bids,

in 2 representative newspapers of general circulation in each field division wherein the timber to be sold is situated, and if the proposed sale be for twenty million feet board measure or more of timber available by location to a single logging operation, the Division Inspector will also cause an advertisement of the proposed sale to be inserted once in two lumber trade journals of general circulation. The Division Inspector will also during the period of the advertising, post copies of the advertisement where they will attract the notice of the general public.

3. The notice of sale must announce the time and place of filing bids; contain a careful description of the land on which the timber is situated, giving the township and range and legal subdivision, or approximate legal subdivision, whether surveyed or unsurveyed, and shall also designate the location with reference to water courses, mountain tops, or other well-known natural objects; the approximate amount in board feet and minimum stumpage value of the timber to be sold; the sum required to be deposited with the bid; the conditions by which the purchaser will be bound; and the name and address of the Division Inspector from whom full information can be obtained. It shall also be stated that bidders offering a sum based on a rate less than the minimum stumpage price of the timber mentioned therein will not be considered and that the right to reject any or all bids is reserved.

4. Each bid submitted must be sealed and transmitted to the Division Inspector having jurisdiction of the timber sale for which the bid is submitted.

Each bid must state whether it is for the whole of the timber offered for sale in the advertisement or for only a part thereof, and, if the latter, it should designate how much, and describe the land from which the timber is to be taken. No bid will be accepted for less than all the timber offered on a legal subdivision. Each bid must state the amount per thousand feet which the bidder will pay for the timber.

Each bid shall be accompanied by a certified check for at least 20 per cent of the amount bid, said certified check to be made payable to the Commissioner of the General Land Office, and to be retained by the Division Inspector and disposed of as provided in Rules 7 and 8.

5. The Division Inspector will number the bids consecutively in the order in which they are received, and endorse thereon the date and hour of receipt and will on the day and at the hour set therefor open said bids and award said timber, either in one lot or in separate lots, located upon definitely described areas of land, in such manner as shall afford the greatest amount of revenue therefrom, to the highest bidder or bidders. Should two or more bids in the same amount be received for the same timber, the award will be made to the bidder whose bid was first received. In such case the award may be made with due regard to other timber purchased by the same persons, and also with a view to preventing a monopoly. The Division Inspector will, immediately upon the acceptance of said bid or bids, notify the bidder or bidders thereof, and shall also promptly forward a report thereon to the Commissioner of the General Land Office.

6. Upon notice from a Division Inspector to a bidder that his bid has been accepted, he must, within 30 days from the receipt of such notice, enter into a contract with the Government through the Commissioner of the General Land Office acting as its agent, subject to the approval of the Secretary of the Interior, and shall execute and file therewith a bond with proper sureties thereupon, the penalty of the bond to be of an amount which shall be 50 per cent of the stumpage value of the timber estimated in accordance with the provisions contained in subdivision (c), section 1, of these Regulations, blank forms to be used in executing contracts and bonds under the act governing the sale of timber herein have been approved by the Secretary of the Interior and copies of the same will be furnished by the Division Inspector. The bond shall be conditioned for the payment for said timber, and for the faithful performance of the above-referred to contract, and for the observance of the regulations hereinafter set forth. Bonds shauld be prepared and executed in accordance with the Regulations of the Department governing the same.

In the event that the bidder whose bid has been accepted shall fail to submit the required bond within the specified time, the Division Inspector shall cause his action in accepting said bid to be revoked by written notice to the bidder (see Rule 7 as to the check), and he shall then accept the bid received by him next in order of time should the bids be equal, otherwise the next highest bid. If the bid accepted was the only bid received, the timber will be readvertised for sale.

7. Immediately upon the execution of the contract and bond the Division Inspector shall transmit the same, together with the certified check originally deposited, to the Commissioner of the General Land Office.

Upon receipt of such certified checks in the General Land Office, they shall be immediately deposited for collection and the moneys derived therefrom placed in his special account in the U. S. Treasury to remain there subject to final disposition as provided in the act of Congress, and the receiving clerk of the General Land Office shall issue his receipt to the purchaser for the amount deposited in each case.

The Commissioner of the General Land Office will execute the contract and transmit it with the bond to the Secretary of the Interior for his approval or rejection. The Division Inspector will be notified of the action taken thereon, and will, in turn, notify the bidder. Upon approval of the contract and bond by the Secretary of the Interior, the amount paid shall be credited as part payment of the purchase price.

8. Should a bidder or bidders whose bid or bids have been accepted by a Division Inspector fail to submit a bond or bonds, as herein provided, the Division Inspector will at once transmit said certified check or checks to the Commissioner of the General Land Office, and the amount or amounts called for therein will be collected and retained by the United States as a forfeit.

Upon the acceptance of a bid or bids by a Division Inspector, the certified checks of the bidders whose bids were rejected shall be returned to them.

9. Immediately upon notification of the approval of a sale by the Secretary of the Interior, the Division Inspector will cause an inspector to go over the area from which the timber is to be removed, with the purchaser or his representative, and designate the timber subject to be taken under the act, and shall also point out the boundaries of the land as blazed or otherwise marked by the inspector who made the appraisal. Cutting and removal of the timber may then be commenced.

10. All settlements for timber cut pursuant to this act shall be based upon an actual scale made after the timber has been cut. The timber shall be scaled by an inspector designated by the Division Inspector, on the banking ground, landing, or skidway, and before it is placed on cars or put into the water. When the timber shall be ready for removal the purchaser shall submit a written notice thereof to the Division Inspector. The scale must be made within 30 days after receipt of such notice. It will not be necessary, however, to wait until all of the timber covered by the contract has been cut before a scale may be made. The scale shall be made in accordance with Scribner's rules, and each log or stick scaled shall be stamped "U. S." on at least one end. The inspector shall keep a record in board feet of all timber scaled and file the same with the Division Inspector.

11. No timber shall be removed until it has been paid for. Although permission may be granted for the removal of installments of timber, yet the sale is not to be considered a sale by installments, and failure on the part of the purchaser to cut and remove all of the timber covered by the terms of the sale will be considered a violation of the terms of the contract and render the obligors in the bond liable for whatever damage shall be incurred by the Government. The amount originally deposited shall be credited as an advance payment and installments of timber up to that amount may be removed without requiring a further deposit. When the stumpage value of an installment of timber, together with the installments previously cut, exceeds the sum originally deposited, a further deposit in a sum sufficient to equal the difference will be required before permission to remove that installment can be granted. All deposits must be made by certified check, payable to the Commissioner of the General Land Office, and all checks thus deposited shall be transmitted to him at once by the Division Inspector.

12. The purchaser shall keep a record of the amount in board feet of timber cut and shall submit a monthly report to the Division Inspector.

13. All brush, tops, lops, and other forest debris, made in felling and removing the timber, shall be disposed of in such manner as shall be set forth in an agreement entered into between the purchaser and the Division Inspector. If the purchaser fails to comply with the requirements contained in said agreement, then the Division Inspector shall cause said debris to be disposed of and charge the expense thereof to the purchaser, provided, however, that written notice shall first be given by the Division Inspector that such action will be taken if said instructions are not complied with within 30 days from the service of such notice. The aforesaid bond shall be conditioned to this requirement.

14. The Division Inspector shall see that so far as practicable all branches of the logging operations keep pace with each other, and the piling or burning of the brush and other debris shall not be allowed to fall behind the cutting and removing of the logs.

15. The Division Inspector shall determine the period within which all of the timber embraced within a sale shall be cut and removed, and completion of the cutting and removing within such period as shall be thus fixed shall be made a condition in the contract and in the bond. The action of the Division Inspector shall be governed by the quantity of timber involved, the topography of the land, the accessibility of the timber, and any other circumstances that may have an influence on the cutting and removing. Owing to the nature of the timber subject to disposal under these rules and regulations, the cutting should be done as rapidly as possible and the final time limits should be restricted as far as practicable logging conditions will permit. Any extension of the period fixed in the contract will be granted only upon a showing that the completion of the cutting was unavoidably delayed by cuases over which the purchaser had no control and that the interests of the Government will not be prejudiced thereby and must be approved by the Secretary of the Interior.

16. Timber of the character described in the above act, located upon existing unperfected claims and upon unapproved selections and grants, may be disposed of in the same manner and under the same conditions as set forth in the preceding paragraphs, provided, however, that an application shall first be filed with the proper Division Inspector by such claimant, selector, or grantee, or by a prospective purchaser, with the written consent of such claimant, selector, or grantee, requesting that the timber on said claim, selection, or grant be offered for sale. Nothing herein shall prohibit such claimant, selector, or grantee fro bidding for the timber thus offered.

17. Nothing in the aforesaid act or these regulations shall be construed to abrogate or in any way modify the rights of settlers or homestead entrymen to cut and dispose of timber on their homestead claims, as explained in Circular No. 306, approved March 7, 1914, or the rights of miners to the enjoyment of the surface embraced within the area of their mining claims, as provided by Sec. 2322, U. S. Revised Statutes.

18. If it shall be shown that there are settlers or residents within the vicinity of the vacant lands involved, who are in urgent need of timber for domestic purposes and it shall be necessary to procure the same from said lands, permits may be granted under applications filed in accordance with the provisions contained in the actsof June 3, 1878 (20 Stat., 88), or March 3, 1891 (26 Stat., 1093), as extended by the acts of July 1, 1898 (30 Stat., 618), and March 3, 1901 (31 Stat., 1439); provided however, that said applications shall be filed prior to the advertising of the timber for sale as hereinbefore set forth. The amounts of timber thus applied for shall be deducted from the amount offered for sale and the advertisement shall state that the sale shall be subject to the rights of such applicants to procure the amounts of timber applied for.

19. The above act specifies the manner of disposition of the proceeds from the sale of the timber authorized thereby. Where the timber is on ceded Indian lands, disposed of in trust for the Indians, or the timber is on unperfected claims, or unapproved selections and grants, the Division Inspectors shall render to the Commissioner of the General Land Office expense accounts showing in each case all costs incident to the administration of the law with reference to such sales in order that the net proceeds therefrom may be ascertained and deposited in the appropriate fund.

20. Division Inspectors shall cause investigations to be made from time to time and submit a final report at the expiration of the period allowed for the cutting and removing, showing whether or not the law and rules and regulations have been complied with and setting forth any infraction of the same.

21. The cutting or removing of the timber referred to herein in any other manner than that authorized by these regulations, will be considered a trespass.

Very respectfully,

THOS. C. HAVELL,

Acting Commissioner.

Approved: September 11, 1926.

E. C. FINNEY,

First Assistant Secretary.

Circular No. 1093a

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

- - -

SALE OF DEAD, DOWN, OR DAMAGED TIMBER, OR TIMBER THREATENED WITH DAMAGE

Regulations contained in Sections 284.1-284.22, Title 43, of the Code of Federal Regulations

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(Reprint, December 1, 1942, with amendmants.)

UNITED STATES DEPARTMENT OF THE INTERIOR

Harold L. Ickes, Secretary

- - - - -

GENERAL LAND OFFICE

December 1, 1942

FOREWORD

This pamphlet contains the codification of the rules and regulations assigned to Sections 284.1-284.22, Title 43, of the Code of Federal Regulations, with amendments to December 1, 1942. The regulations were codified and published pursuant to Section 11 of the Federal Register Act, as amended (50 Stat. 304; 44 U.S.C. 311).

The sections mentioned contain regulations relating to the sale of dead, down, or damaged timber, or timber threatened with damage.

The Federal Register Act makes the documents which were codified and published pursuant thereto prima-facie evidence of the text of such documents and of the fact that they are in full force and effect on and after the date of publication.

For the text of regulations issued after the date hereof, the daily issues of the Federal Register and pamphlet copies of the regulations issued by the General Land Office should be consulted.

Fred W. Johnson

Commissioner.

TABLE OF CONTENTS

Sec.
284.1 Statutory authority
284.2 Sale and cruise of timber
284.3 Advertisement; posting of notice
284.4 Information to be given in notice of sale
284.5 Submission of bids; deposit required; citizenship requirements
284.6 Action on bids
284.7 Contract and bond
284.8 Action in General Land Office; notice to purchaser
284.9 When deposit will be forfeited or returned
284.10 Commencement of cutting operations
284.11 Marking and measurement of timber

Sec.
284.12 Forest practice rules
284.13 Report by purchaser
284.14 Expense chargeable to purchaser, on default
284.15 Logging operations
284.16 Extension of period for cutting operations
284.17 Timber on unperfected claims, selections, and grants
284.18 Rights of settlers, homesteaders, and mineral claimants
284.19 Timber for use of settlers or residents
284.20 Disposition of moneys
284.21 Investigation of cutting operations
284.22 Unauthorized cutting

APPENDED

Application Form No. 4-173a
Consent of claimant Form No. 4-173b
Contract Form No. 4-173c containing "Forest Practice Rules and General Contract Stipulations
Bond Form No. 4-173d

SALE OF DEAD, DOWN, OR DAMAGED TIMBER, OR TIMBER THREATENED WITH DAMAGE.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

Sec. 284.1 Statutory authority. The Act of March 4, 1913 (37 Stat. 1015), as amended by the Act of July 3, 1926 (44 Stat. 890; 16 U.S.C. 614, 615), permits the sale of all dead or down timber and timber seriously or permanently damaged by forest fires on vacant public lands outside of national forest, including ceded Indian lands, and including lands in the Territory of Alaska, and also lands embraced within unperfected or unapproved claims, grants, or selections over which the Department of the Interior has jurisdiction.

The Act of September 20, 1922 (42 Stat. 857; 16 U.S.C. 594), authorizes the Secretary of the Interior to protect and preserve from fire, disease, or the ravages of beetles, or other insects, timber owned by the United States upon the public lands and on other lands described in the Act. It is construed to confer authority to cut, remove, and sell timber from the public lands, whenever necessary for the purposes described.[1]

284.2 Sale and cruise of timber. Application requesting the sale of timber of the classes described in Section 284.1 must be made in duplicate on form 4-173a,[2] and filed in the proper district land office. The Register will give the application a serial number, note the filing on his serial number register, and fill out the status report on the back of the original and duplicate of the application. He will forward the original application to the General Land Office, with his regular returns, and the duplicate to the field officer designated by the Commissioner of the General Land Office to conduct the preliminary proceedings of the sale. If there is no district land office in the state, the application must be filed in the General Land Office.

The field officer in charge of the preliminary proceedings, upon receipt of the duplicate application, or whenever timber of the class described is found, for which there is a market, will cause a cruise thereof to be made, the timber, the disposal of which is contemplated, to be marked and measured in accordance with section 284.11, and a report of the cruise to be made to the General Land Office. The report should contain the following information:

(a) Description of the land upon which the timber is situated, by township and range and legal subdivisions thereof, is surveyed, or by natural objects sufficient to identify the land, if unsurveyed.

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[1] Amended by Circ. 1511, June 4, 1942.

[2] Copy attached.

(b) Method of cruising used.

(c) Approximate percentage of the timber on the described area that is dead, down, or damaged by fire or insects, or threatened with damage, and the nature of the threat.

(d) The scale in thousand feet board measure of timber subject to sale and the kind of timber involved.

(e) The approximate market value of the timber per thousand feet board measure, the prospects of a sale, the location of the timber, and a minimum stumpage price per thousand feet board measure therefor; and

(f) The method and approximate expense of disposing of the brush, tops, lops, and other forest debris which will result from the felling and removing of the timber.[3]

284.3 Advertisement; posting of notice. After consideration of the report, the Commissioner of the General Land Office will, if deemed advisable, direct the officer in charge to offer the timber for sale under sealed bids by advertising for a period of 30 days, as follows:

(a) In cases of small quantities of timber amounting in value to $1,000 or less, the sale should be advertised by the posting of notices only.

(b) Where larger quantities of timber are involved, the sale should be advertised in one or two representative newspapers of general circulation in the field division wherein the timber to be sold is situated, once a week for 4 weeks if in a daily paper, or if in a weekly paper, for 4 consecutive weeks, next preceding the time set for the opening of the bids. And if the proposed sale be for 20,000,000 feet, board measure, or more, of timber available by location to a single logging operation, the officer in charge will also cause an advertisement of the proposed sale to be inserted once in two lumber trade journals of general circulation. During the period of advertising the officer in charge will also post copies of the advertisement where they will attract the notice of the general public.[4]

284.4 Information to be given in notice of sale. The notice of sale must announce the time and place of filing bids; contain a careful description of the land on which the timber is situated, giving the township and range and legal subdivision, or approximate legal subdivision, whether surveyed or unsurveyed, and shall also designate the location with reference to water courses, mountain tops, or other well-known natural objects; and state the scale in board feet and minimum stumpage value of the timber to be sold, the sum required to be deposited with the bid, the conditions by which the purchaser will be bound, and the name and address of the officer in charge from whom full information can be obtained. It shall also be stated that bidders offering a sum based on a rate less than the minimum stumpage price of the timber mentioned therein will not be considered and that the right to reject any or all bids is reserved.5/

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[3] Amended by Circ. 1520, Dec. 1, 1942.

[4] Amended by Circ. 1511, June 4, 1942.

284.5 Submission of bids; deposit required; citizenship requirements. Each bid submitted must be enclosed in a sealed envelope and transmitted to the officer in charge having jurisdiction of the timber sale. The envelope must be marked "Bid for Timber, sale date ____________, 19____."

Only bids for all of the timber offered in the advertisement for sale as a unit will be considered. Each bid should state clearly the amount per thousand feet which the bidder will pay for the timber, as well as the total amount offered.

Each bid shall be accompanied by a certified check or post office money order for at least 20 percent of the total amount bid, the remittance to be made payable to the Commissioner of the General Land Office.

Every bidder, if an individual, will be required to show that he is a citizen of the United States or has declared his intention to become such citizen; if a partnership or association, that each member of the firm is such a citizen or declarant; or, if a corporation, that the corporation was organized under the laws of the United States or of some state, territory, or possession thereof, and that its stock is owned by such citizens or declarants.5/

284.6 Action on bids. The officer in charge will number the bids consecutively in the order in which they are received, and endorse thereon the date and hour of receipt and will on the day and at the hour set therefor open said bids and award said timber to the highest bidder. The officer in charge will, immediately upon the acceptance of a bid, notify the bidder thereof, and promptly forward a report thereon to the Commissioner of the General Land Office. When two or more bids in the same amount are received, or it appears that a monopoly might be created by an award to the highest bidder, or if it appears to be against the public interest for any other reason to accept the highest or the only bid, all bids will be transmitted, with a report, by the officer in charge to the Commissioner of the General Land Office, who will make the award or reject the bids, as the circumstances may warrant.5/

284.7 Contract and bond. The successful bidder will be allowed 30 days from notice of the award to execute, in quadruplicate, Form 4-173c,6/ "Timber Contract", which is made a part of this section, and file therewith a cash bond or a bond having a surety a bonding company shown in the then current

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5/ Amended by Circ. 1520, Dec. 1, 1942.

6/ Copy attached.

approved list of the Treasury Department. The bond should be prepared and executed on Form 4-173d 7/ and shall be conditioned on the faithful performance of the contract and on the observance of the applicable laws and regulations. The penalty of the bond shall be fixed by the Commissioner of the General Land Office in a sum of not less than 25 per cent of the amount of the bid. If the contract and bond are not submitted within the 30 days, the officer in charge will revoke the award by written notice, and award the timber to the next highest bidder. 8/

284.8 *Action in General Land Office; notice to purchaser.* Immediately upon the execution of the contract and bond by the purchaser, the officer in charge shall transmit the same, with the certified check originally deposited, to the Commissioner of the General Land Office.

The Commissioner will execute or disapprove the contract when the purchase price of the timber does not exceed $10,000. When the purchase price is more than that amount, contracts will be entered into only with the express approval of the Secretary of the Interior. The bond guaranteeing the faithful performance of a contract shall be approved by the officer approving the contract.

The officer in charge will be notified of the action taken, and when a contract and bond are approved, will require the purchaser to complete payment for the timber.

The payment must be made by certified check or post office money order payable to the Commissioner of the General Land Office. Upon receipt of the payment, the officer in charge will forward it promptly to the Commissioner and advise the Register of such action. 8/

284.9 *When deposit will be forfeited or returned.* Should a bidder whose bid has been accepted by the officer in charge fail to submit a contract and bond, as required by Section 284.7, the officer in charge will at once transmit the remittance to the Commissioner of the General Land Office, and the amount called for therein will be collected and retained by the United States as a forfeit.

Upon the acceptance of a bid by the officer in charge, the remittances of the bidder whose bids were rejected shall be returned to them. 8/

284.10 *Commencement of cutting operations.* The cutting and removal of the timber may be commenced at any time after the delivery of the contract to the purchaser. 8/

284.11 *Marking and measurement of timber.* Before timber is offered for sale, it will be carefully cruised by or under the supervision of the officer

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7/ Copy attached.

8/ Amended by Circ. 1520, Dec. 1, 1942.

in charge. Since the timber sold under authority of the Acts cited in Section 284.1 of these regulations will usually consist of only a part of the trees within a given area and of small amount in isolated or scattered tracts, the amount to be sold will be definitely ascertained through a determination of the volume of individual trees and the marking of the trees before the timber is offered for sale. In a white pine, ponderosa pine, or southern pine region, this determination of volume will be made on the basis of the Scribner Decimal C Log Rule with a maximum log length of sixteen feet and in the Douglas fir region upon the basis of the Scribner Decimal C Log Rule with a maximum log length of thirty-two feet.9/

284.12 Forest Practice Rules. All timber sales will be made subject to the provisions of the "Forest Practice Rules," which are appended to and made a part of the Timber Contract, Section 284.7.9/

284.13 Report by purchaser. The purchaser shall furnish the officer in charge such reports on the logging operations as that officer may require.9/

284.14 Expense chargeable to purchaser, on default. If the purchaser fails to comply with any of the provisions of his contract, as to the disposal of the debris, or otherwise, and it becomes necessary for the United States to remove the debris or to incur other expense because of such default, the expense shall be charged to the purchaser, provided, however, that written notice shall first be given by the officer in charge that such action will be taken if the rules are not complied with within 30 days from the services of such notice.9/

284.15 Logging Operations. The officer in charge shall see that so far as practicable all branches of the logging operations keep pace with each other, and the piling or burning of the brush and other debris shall not be allowed to fall behind the cutting and removing of the logs.10/

284.16 Extension of period for cutting operations. The officer in charge shall determine the period within which all of the timber embraced within a sale shall be cut and removed, and completion of the cutting and removing within such period as shall be thus fixed shall be made a condition in the contract and in the bond. The action of the officer in charge shall be governed by the quantity of timber involved, the topography of the land, the accessibility of the timber, and any other circumstances that may have an influence on the cutting and removing. Owing to the nature of the timber subject to disposal under Sections 284.1-284.22, the cutting should be done as rapidly as possible and the final time limits should be restricted as far as practicable logging conditions will permit. Any extension of the period fixed in the contract will be granted only upon a showing that the completion of the cutting was unavoidably delayed by causes over which the purchaser had no control and that the interests of the Government will not be prejudiced thereby, and must be approved

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9/ Amended by Circ. 1520, Dec. 1, 1942.

10/ Amended by Circ. 1511, June 4, 1942.

by the Commissioner of the General Land Office if the stumpage value of the timber is $10,000 or less, and by the Secretary of the Interior where more than that amount.[11]

284.17 Timber on unperfected claims, selections, and grants. Timber of the character described in the Act of March 4, 1913, as amended, located upon existing unperfected claims and upon unapproved selections and grants, may be disposed of in the same manner and under the same conditions as set forth in Sections 284.1-284.16, provided, however, that an application shall first be filed with the proper officer in charge by such claimant, selector, or grantee, or by a prospective purchaser, with the written consent[12] of such claimant, selector, or grantee, requesting that the timber on said claim, selection, or grant be offered for sale. Nothing herein shall prohibit such claimant, selector, or grantee from bidding for the timber thus offered.[13]

284.18 Rights of settlers, homesteaders, and mineral claimants. Nothing in the Act of March 4, 1913, as amended, or in Sections 284.1-284.22, shall be construed to abrogate or in any way modify the rights of settlers or homestead entrymen to cut and dispose of timber on their homestead claims, as explained in Sections 284.36-284.39, or the rights of miners to the enjoyment of the surface embraced within the area of their mining claims, as provided by section 2322, United States Revised Statutes (30 U. S. C. 26).

284.19 Timber for use of settlers or residents. If it shall be shown that there are settlers or residents within the vicinity of the vacant lands involved, who are in urgent need of timber for domestic purposes and it shall be necessary to procure the same from lands covered by applications for dead, down, or damaged timber, permits[14] may be granted under applications filed in accordance with the provisions contained in the Acts of June 3, 1878 (20 Stat. 88; 16 U.S.C. 604-606, or March 3, 1891) (26 Stat. 1093; 16 U.S.C. 607), and Acts amendatory hereof and supplemental thereto; provided, however, that said application shall be filed prior to the advertising of the timber for sale, as set forth in Section 284.3, 284.4. The amounts of timber thus applied for shall be deducted from the amount offered for sale and the advertisement shall state that the sale shall be subject to the rights of such applicants to procure the amounts of timber applied for.

284.20 Disposition of moneys. All sums deposited and paid in connection with timber sales made under Sections 284.1-284.22 will be deposited in the Treasury as required by the act of March 4, 1913, as amended (37 Stat.

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[11] Amended by Circ. 1511, June 4, 1942, and Circ. 1520, Dec. 1, 1942.

[12] Copy attached, Form No. 4-173b

[13] Amended by Circ. 1511, June 4, 1942

[14] Free use, 43 C.F.R. 284.23-284.35

1015; 44 Stat. 890; 16 U.S.C. 614, 615), or as otherwise provided by law.[15]

284.21 Investigation of cutting operations. The officer in charge shall cause investigations to be made from time to time and submit a final report at the expiration of the period allowed for the cutting and removing, showing whether or not the law and rules and regulations have been complied with and setting forth any infraction of the same.[16]

284.22 Unauthorized cutting. The cutting or removing of the timber referred to in Sections 284.1-284.21 in any other manner than that authorized by such sections will be considered a trespass.

Reprint of Sections 284.1-284.22, Title 43, of the Code of Federal Regulations based on Circulars 1093 and 1112 of September 11, 1926, and February 25, 1927, respectively, as amended by Circular 1511 of June 4, 1942, and Circular 1520 of December 1, 1942.

15/ Amended by Circ. 1520, Dec. 1, 1942.

16/ Amended by Circ. 1511, June 4, 1942.

Form 4-173a 9741-2

(To be filed in
duplicate)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

TIMBER SALE APPLICATION

Dead, down, or damaged timber, or timber threatened with damage.

Serial No.

The Commissioner
of the General Land Office,
Washington, D. C.

Sir:

Request is made that the timber on the public lands described below be offered for sale under the Act of March 4, 1913 (37 Stat. 1015) as amended by the Act of July 3, 1926 (44 Stat. 890; 16 U.S.C. 614, 615), and the Act of September 20, 1922 (42 Stat. 857; 16 U.S.C. 594), in accordance with the regulations thereunder (43 CFR 284.1-284.22; Circ. 1093a).

The timber is located on:[1] ______________________________

____

____

____

Species and amount of the timber in board feet measure: ______________

____

____

Condition of the timber: ______________________________

____

____

____

____

____

This application is made by the undersigned in good faith, as a prospective purchaser.

____
(Applicant)

1/ If land is embraced in an unperfected claim, consent of the claimant to the sale of the timber must be furnished on Form 4-173b.

9741-2

Date

(Street or Post Office Address)

(City or Town)

(State)

Register's Status Report

Status of the lands described in the foregoing application is as follows:

Register

Note: If the lands are in a grazing district, the register must obtain a report from the regional grazier as to whether the sale of the timber would interfere with the administration of the lands for grazing purposes. The timber sale application should not be forwarded to the General Land Office until such report has been obtained. The register's report should show the number of the grazing district, the date of the regional grazier's report, and the substance of the recommendations of that office. The regional grazier's report should be transmitted to the General Land Office with the timber sale application.

Form 4-173b 9741-3

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

CONSENT BY PUBLIC LAND CLAIMANT TO SALE OF TIMBER

When the sale of timber on land embraced within an unperfected claim is applied for, the timber applicant must obtain the consent thereto of the public-land claimant on this form.

Date______________________________

The Commissioner
of the General Land Office,
Washington, D. C.

Sir:

I have read or heard read the application of______________________________, Serial No. ______________, District Land Office______________________________, requesting the sale of dead, down, or damaged timber, or timber threatened with damage on land embraced in my unperfected ______________________________, Serial No. ______________, filed in the District Land Office at ______________, on ______________________, 19______,

I hereby give my consent and approval to the sale of the above-mentioned timber on condition that the net proceeds to be derived from such sale, after deducting the cost of appraisal, advertising, and other expenses necessarily incurred by the Government in connection therewith, shall be paid to me by the Government when my claim has been finally approved and patented. If, however, the claim should be relinquished or canceled, the proceeds will become the property of the Government. Nothing herein shall prohibit me from bidding for the timber.

____
Claimant 1/

____
Street or other Address

____
City or Town

______________________________, whose post office address is______________ ______________________________, State of ______________, being first duly sworn, on his oath deposes and says that he is the person who executed the above consent, and that the statements contained therein are true.

Claimant ______________________________

Subscribed and sworn to before me at ______________________________ this ______________ day of ______________________, 19 ________.
My commission expires ____, 19______.

____

____
Official Title

1/ If the claimant is a corporation or partnership, this form should be appropriately modified and evidence of the authority of the signing officer to execute the consent must be furnished.

Form 4-173c

9741-4

(To be filed in
quadruplicate)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

TIMBER CONTRACT

THIS AGREEMENT, entered into as of 19 , under authority of the Act of March 4, 1913 (37 Stat. 1015), as amended by the Act of July 3, 1926 (44 Stat. 890), and the Act of September 20, 1922 (42 Stat. 857), and the regulations thereunder set forth in 43 CFR 284.1-284.22 as amended, between THE UNITED STATES OF AMERICA, and (If a corporation, give the state of

under which laws incorporated and existing; if a partnership, give firm name),

hereinafter called the purchaser, witnesseth:

That the United States of America agrees to sell, and the purchaser agrees to buy, upon the terms and conditions herein stated and subject to compliance with the "Forest Practice Rules and General Contract Stipulations" appended to and made a part hereof, all of the merchantable dead or damaged timber, standing or fallen, and all of the merchantable green trees that have been marked for cutting by the officer in charge, for salvage purposes in accordance with the provisions of the Act of September 20, 1922, cited above

on the following-described lands, to wit:

situated in the County of , State of

FOR AND IN CONSIDERATION of the foregoing, the purchaser agrees, upon the approval of this contract by the authorized officer of the Government, to pay to the register of the proper district land office the sum of dollars in addition to the dollars ($) heretofore deposited at the time of submitting the bid for the timber, all of which constitutes the full purchase price of the timber at the following rates:

SPECIES	M FEET, B. M.	PRICE PER M	AMOUNT
Yellow Pine Sugar Pine Red Fir Yellow Fir White Fir Port Orford Cedar Red Cedar Incense Cedar			
TOTALS			

The purchaser further agrees that no timber will be cut until payment therefor has been made and that unless an extension of time is granted by the officer approving this contract, all timber will be cut and removed within years from the date of approval hereof.

It is further understood and agreed that this contract shall be null and void and of no effect until approved by the authorized officer of the Government and until the purchaser shall have deposited a cash bond or filed an acceptable corporate surety bond in the sum of dollars ($) with the Register of the District Land Office as a guarantee of the faithful performance of the terms of this contract; said cash bond to be returned to the purchaser or corporate surety bond declared null and void upon the completion of the contract; provided the terms of the agreement have been fully observed. It is further provided that if the terms of the agreement have not been fully conformed to as determined by the officer in charge the bond will be forfeited.

THE UNITED STATES OF AMERICA

By________________________

Applicant________________________
(See Footnote)

(CORPORATE SEAL,)
(IF A CORPORATION)

ATTEST:

____
Secretary, if corporation

Witnesses:

____

____
Post Office Address

____

____
Post Office Address

Footnote. If the applicant is an individual, he should sign the contract with his full Christian name and surname; if a corporation, a certified copy of the articles of incorporation and a regularly attested copy of the minutes of the meeting, resolution, or other order, authorizing the officers to sign must be furnished; and, if an association or partnership, a copy of the constitution and by-laws, or articles of agreement. Every bidder, if an individual, will be required to show that he is a citizen of the United States or has declared his intention to become such citizen; if a partnership or association, that each member of the firm is such a citizen or declarant; or, if a corporation, that the corporation was organized under the laws of the United States or of some state, territory or possession thereof, and that its stock is owned by such citizens or declarants.

FOREST PRACTICE RULES AND GENERAL CONTRACT STIPULATIONS

1. The term "officer in charge" as used in these stipulations shall be the person designated by the Commissioner of the General Land Office to supervise the timber contract of which these rules and stipulations constitute a part.

2. Title to the timber sold will not pass to the purchaser until paid for in full.

3. The timber shall be logged under the tree selection system; only trees marked "US" shall be cut; and the removal of the timber shall be conducted in a manner which will protect the young growth and preserve the forest cover in so far as practicable in all branches of the logging operations. The use of young trees in the construction of improvements may be restricted to the extent that the officer in charge considers advisable.

4. The areas to be logged in any season may be designated by the officer in charge when in his judgment this is necessary to prevent deterioration from fire, worms, or other cause, or to insure the logging of the sale unit in such manner as shall fully protect the interest of the United States.

5. All standing dead trees which have been designated for removal shall be cut and all merchantable logs in dead or fallen trees will be removed or paid for.

6. Firewood and improvements will be made as far as possible from unmerchantable material and material so used will not be charged to the purchaser. Wood and improvements taken from merchantable material not marked for cutting will be measured and charged for at double the stipulated prices.

7. The slash resulting from logging operations including all branches up to 4 inches in thickness lopped from tops and logs, will at the time of skidding be piled compactly and away from reserved trees on the whole area to be selectively logged.

8. Burning or other disposal of the slash by the purchaser will be done at such times and in such manner as may be required by the officer in charge.

9. Unsatisfactory disposal of slash will be cause for the officer in charge to suspend all operations of the purchaser until the unsatisfactory condition has been corrected.

10. Forest fires on the sale area or adjacent lands during the contract period will be prevented or suppressed by the purchaser, his employees, and subcontractors, whenever possible. When called upon by the officer in charge, they will work under his direction in the suppression of fires. If the purchaser or his employees or subcontractors were not directly or indirectly responsible by act or neglect for the origin or the spread of the fire, reimbursement will be made, except that such reimbursement shall not exceed one-half of the cost of suppression within the sale area.

11. Stumps will be cut low so as to avoid waste and the mean height of any stump will not exceed one-half its diameter, except where because of defect or deformity this height is considered impracticable by the officer in charge.

12. Carelessness on the part of fellers or other employees of the purchaser that results in unnecessary breaking of trees not marked for cutting will be penalized by scaling such trees full as if they had not been broken and requiring payment therefor at twice the rate per thousand feet board measure stipulated in the timber contract.

13. The vicinity of logging camps and stables will be kept in a clean and sanitary condition, and rubbish will be removed and properly burned or buried during the occupancy and upon the removal of the camps and stables.

14. Streams shall not be obstructed by felled trees or otherwise, nor shall they be polluted by sawdust, or any other refuse from camp or mill.

15. Existing telephone lines, fences, roads, trails, and other improvements shall be protected as far as possible in the logging operations, and whenever they are broken or obstructed the purchaser shall promptly repair the damage under penalty of forfeiture of contract for failure to make such repairs.

16. Improvements necessary to execute this contract, such as camps, sawmills, railroads, roads, telephone lines, chutes, bridges, sluices, and dams may be constructed and maintained by the purchaser on and across the contracted area, subject to regulation by the Commissioner of the General Land Office.

17. Improvements already on the area which are necessary for logging purposes may be used by the purchaser subject to regulation by the Commissioner of the General Land Office.

18. The time limit for the removal of the improvements and other property of the purchaser is one year after the expiration of the contract. After that time the title to improvements, including camps, will attach to the land, and no personal property of the purchaser will thereafter be removed except with the written consent of the officer in charge; provided, that improvements necessary for the logging of other public-land timber may be left for such time and on such terms as may be prescribed by the Commissioner of the General Land Office.

19. Extension of time for the preformance of this contract may be granted the purchaser by the officer approving the contract, in his discretion and subject to such conditions as he may impose.

20. If extension of time to cut and remove the timber is not granted by the officer approving the contract, the purchaser shall not cut timber after the expiration thereof, but he may remove the timber previously cut and paid for, within one year of the expiration of the contract. If not removed within the time allowed, the title will revert to the United States notwithstanding the purchaser may have paid for the timber.

21. Assignment of his contract in whole or in part by the purchaser will not relieve him of his contract obligations unless the assignment is approved by the officer approving the contract and the bond is satisfactorily renewed.

22. Suspension of the purchaser's operations may be made by the officer in charge after due notice if any requirements of the contract are disregarded and until there is satisfactory compliance. Failure to comply with any one of the requirements of his contract after written notice addressed to the purchaser by the officer in charge will be ground for revocation by the officer approving the contract, of all rights of the purchaser under the particular contract, and other contracts, and the forfeiture of his bond and of all moneys paid, and the purchaser will be liable for all damage resulting from his breach of contract.

23. An appeal as provided by the Rules of Practice of the Department of the Interior may be taken to the Commissioner of the General Land Office and Secretary of the Interior from the final decision of the officer in charge.

24. Whenever any bond furnished to guarantee sale obligations shall be unsatisfactory to the officer approving the sale he may require a new bond which shall be satisfactory to him.

25. No member or delegate of Congress shall be admitted to any share, part, or interest in this contract, or to any benefit derived therefrom (see Sections 114 and 116, of the Criminal Code 35 Stat. 1109; 18 U.S.C. 204, 206), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract (see Executive Order of May 18, 1905).

Form 4-173d 9741-5

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office

BOND

KNOW ALL MEN BY THESE PRESENTS, That______________________________, of______________________________, State of____________________, as principal, and______________________________, a corporation organized and existing under the laws of the State of____________________, having its principal office at______________________________, as surety, are held and firmly bound unto the United States of America in the penal sum of______________________________dollars ($____________)1/ lawful money of the United States for the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors, administrators, successors, or assigns, jointly and severally, firmly by these presents.

Signed and sealed this____________day of________________, 19____.

The condition of the foregoing obligation is such that--

WHEREAS,______________________________, principal herein, on the____________day of________________, 19____ submitted a proposal to purchase certain timber as shown below:

SPECIES	M FEET, B. M.	PRICE PER M	AMOUNT
Yellow Pine			
Sugar Pine			
Red Fir			
Yellow Fir			
White Fir			
Port Orford Cedar			
Red Cedar			
Incense Cedar			
TOTALS			

1/ The penalty of the bond will be fixed by the Commissioner of the General Land Office in a sum not less than 25 per cent of the amount of the bid.

located on certain public lands in the State of________________________ described as follows, to wit:

____

____

____

____

____

and did stipulate and agree that if the said proposal was accepted by the authorized officer of the Department of the Interior, the proposal and its acceptance should constitute a binding contract for the sale of said timber in accordance with the regulations accompanying the proposal; and

WHEREAS, ____ did on the__________day of____________, 19____, duly accept said proposal, subject to the execution of a satisfactory contract and bond.

NOW, THEREFORE, if the said principal, heirs, executors, administrators, successors, and assigns, shall execute and faithfully conform to and observe the provisions of such contract and the laws and regulations applicable thereto, and in no respect violate the contract, laws or regulations, then and in that event, the above obligation shall be null and void, otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we hereunto set our hands and seals this the_______ day of______________________, 19____.

(CORPORATE SEAL)
(OF PRINCIPAL)
(IF CORPORATION)

____________________________ [L.S.]
Principal

(CORPORATE SEAL)
(OF SURETY)

____________________________ [L.S.]

The above bond is accepted this____________day of______________, 19____.

____

Superseded by Circ 1386 2/15/52

CIRCULAR NO. 1094

AMENDMENT OF SECTION 8 OF CIRCULAR NO. 672 RELATIVE TO LEASES AS A REWARD FOR DISCOVERY

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, September 23, 1926.

Registers, United States Land Offices.

Sirs: On August 30, 1926, the department amended section 8 of the regulations concerning oil and gas permits and leases published as Circular No. 672 of the General Land Office to read as follows:

8. REWARD FOR DISCOVERY.---Upon establishing to the satisfaction of the Secretary of the Interior that compliance has been made with the terms and conditions of the permit and the operating regulations applicable thereto and that valuable deposits of oil or gas have been discovered within the limits of the land embraced in the permit, within the period of the permit or extension thereof, the permittee is entitled (a) to a lease of one-fourth of the land thereof included in the permit, on a royalty of 5 per cent, or for at least 160 acres if there be that area in the permit; (b) to a preference right to a lease for the remainder of the land covered by his permit at such royalty as may be fixed by the Secretary of the Interior, not less than 12½ per cent in amount or value of the production, nor more than the royalties fixed for leases under section 18 of the act, (sec. 19, par. c, of these regulations), except that on that portion of the average production exceeding 200 barrles per day per well for the calendar month, the royalties shall be 33 1/3 per cent for oil of 30° B. or over and 25 per cent for oil of less than 30° B. Application for

lease based on a claim of discovery of oil or gas within the limits of land embraced in a permit should set forth in detail the operations that have been donducted and the amount and value of the discovery claimed to have been made; and must include a certificate by the officer of the department empowered to supervise operations under the permit to the effect that the permittee has conducted his prospecting operations in accordance with approved methods and practice and has made satisfactory compliance with the operating regulations; that each and every well drilled on the permit area is in a satisfactory condition, and that the well or wells relied upon for evidence of discovery have been put in condition for operation and thereafter tested adequately for productive capacity.

Very respectfully,

THOS. C. HAVELL
Acting Commissioner.

RECEIVED
U. S. LAND OFFICE
BILLINGS, MON 9756
Date OCT 8 - 1926
Hour

Circular No. 1098.

DIRECTING THAT ECONOMY BE OBSERVED IN WORDING OF TELEGRAMS.

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DEPARTMENT OF THE INTERIOR
General Land Office
Washington

September 29, 1926.

To All Field Officers

of the General Land Office.

Gentlemen:

The Secretary has again called my attention to the amounts being expended for telegraph service and to the necessity for observing the utmost economy in the wording of telegraph messages in order that the cost of telegraphing may be kept at a minimum. The following is quoted from his letter of September 16, 1926, for your information and guidance:

> "It is reported to me that day messages are sometimes telegraphed when night messages would serve equally well. Further, that telegrams are often unnecessarily verbose.
>
> "Please see to it that employees in your bureau employ the telegraph and telephone as they would if personally bearing the expense of the message being sent."

Four classes of telegraph service (day message, day letter, night message, night letter) may be used for Government messages. However, except where the message contains ten or less words, and then only in the most urgent cases, all telegraphic communications should be sent at the night rate, this being the least expensive class of telegraph service.

The regulations governing the charges for Government messages provide that:

> "An overnight message in plain language shall be charged for as a night message or as a night letter according to which of these two classifications shall produce the lower charge for the message."

The cost of a night message is based on the number of words contained therein, whereas a maximum of fifty words is allowed in a night letter without additional charge. For short messages the night message rate is much less expensive than the night letter rate. Therefore, the fact that a message is sent by overnight traffic should not be the occasion for a departure from the requirement of brevity, and the mere fact that a night letter may contain fifty words without additional charge for that class of service does not justify a communication of a conversational or manuscript character since a less number of words may bring the message within the lower rate of the night message class.

(over)

You are instructed to exercise extreme care in the preparation of telegraphic communications to see that all words unnecessary to a clear understanding of the message are eliminated therefrom. Words such as "the", "and", "of", etc., may frequently be omitted without detriment to the message.

A strict observance of the rule of brevity in telegraph message will result in a considerable reduction in the cost of such service.

Very respectfully,

WILLIAM SPRY,

Commissioner.

Circular No. 1099.

OIL AND GAS PERMIT APPLICATIONS MADE BY ATTORNEYS IN FACT.

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UNITED STATES

DEPARTMENT OF THE INTERIOR

General Land Office

Washington October 19, 1926.

Registers,

United States Land Offices.

Sirs:

Under date of September 21, 1926, the Department directed, in connection with applications for oil and gas prospecting permits filed under the act of February 25, 1920 (41 Stat., 437), that--

> "From and after November 1, 1926, prospecting permit applications signed by attorneys in fact must be accompanied by powers of attorney and affidavits by the applicants as to their qualifications. Such applications not accompanied by proof of authority and qualifications will be received and rejected, subject to the right to complete or to appeal, but will not be noted on the tract books or plats prior to the filing of powers of attorney and affidavits by the applicants as to their qualifications."

You will in acting on cases coming under these instructions allow 15 days in which to cure the defects or to appeal, and in default, transmit the papers to this office as a closed case. If the power of attorney is filed and the land has not in the meantime been appropriated under a proper oil and gas application, you will note the hour and date the application is so completed and hold same suspended for 30 days after completion, at which time you will take action as prescribed in section 4, Circular No. 672 (47 L. D., 437).

Any application presented by agent or attorney in fact which appears to have been executed by the applicant in blank and the land description later filled in by the agent or attorney, should be received and noted filed, and promptly transmitted here for instructions, accompanied by your report of all the facts and circumstances known.

You will give the widest publicity possible for these regulations without expense to the Government.

Very respectfully,

THOS. C. HAVELL,
Acting Commissioner.

Approved: October 19, 1926.
E. C. FINNEY,
First Assistant Secretary.

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